

Thinking about "Interests": Legislative Process in the European Community

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The Council shall, on a proposal from the Commission and after consulting the Assembly, acting unanimously during the first two stages and by a qualified majority thereafter, make regulations, issue directives, or take decisions, without prejudice to any recommendations it may also make.

—Rome Treaty, art. 43(2), par. 3

In August 1973, between 60,000 and 80,000 people protested against a French government plan to extend a military camp at Larzac that was reportedly one link in the chain of NATO bases in Mediterranean Europe. The demonstration was part of a continuing popular struggle by sheep farmers and others, waged against what they saw as an authoritarian central government. Described as the first major national event involving Paysans-Travailleurs, a radical young farmers and farm workers association (Lambert 1975:16), it also coincided with a partial breach in the decade-old hegemony of the Fédération Nationale des Syndicats d'Exploitants Agricoles (FNSEA) in French neocorporatist agricultural politics (Gervais 1972; Keeler 1981a, 1981b; Sokoloff 1980).

At the same time, changes in the world political economy altered some of the basic parameters within which multinational companies operated in the international meat trade. The 1973 oil crisis, on the one hand, led to an increase in the world price of crude oil. It resulted in a

rise in incomes in the Middle East, thus stimulating a greater demand in the mainly Muslim countries for imported lamb and mutton. On the other hand, the relative profitability of beef and sheep production in the main exporting countries (Australia, New Zealand, and Argentina) shifted in favor of sheep. These factors converged to cause a sharp increase in world sheep production (Centre Français du Commerce Extérieur 1974, 1:154; Broders 1981:332-334; *Agra Europe* 1982:1, 52; Taylor 1982:1).

Concurrently, in 1973, the United Kingdom and Ireland joined the European Common Market (European Community, or EC). Both the United Kingdom and, to a lesser extent, Ireland were major sheepfarming countries, whereas France had previously been the EC's principal lamb producer. The enlargement of the European Community thus posed especially difficult political, economic, and legal issues, centering on the United Kingdom's continuing relationship, through the Commonwealth, with New Zealand. Great Britain's imports of New Zealand lamb represented approximately 85 to 90 percent of the total pre-1973 EC lamb imports (including intra-EC trade), amounting to between 90 percent and 95 percent of the European Community's total lamb imports from non-EC countries.

Then, following British and Irish accession, the Commission of the European Communities proposed a new agricultural commodity regime or common organization of the market, meant to regulate the market in lamb and mutton, known officially as sheepmeat. This regime was the first comprehensive regulatory scheme for an agricultural commodity since the heady 1960s. In the face of economic recession, nationalist protectionism, and centrifugal political trends, it was not only intended to promote intra-EC trade and to protect European producers, but also designed to use European Community law as a potentially potent symbol of Western Europe's continuing economic unity.

These apparently unconnected events formed part of a legislative process—the making of supranational economic regulatory legislation in the European Common Market. Elaboration of the EC sheepmeat regime, which began in the early 1970s, occupied almost a decade. With this process as the context (see also Snyder 1985b, 1987b), this chapter focuses primarily on the question of "interests." How do (might, should) we think about interests? That this question is important, not only for students of European Community law but also for legal anthropologists concerned with law and disputes, is a central thesis of the chapter. Conceptions of "interests" and "interest representation" underlie any

study of law in society, even though they may be conceptualized in different ways, depending on the theoretical perspective. They serve as analytical tools for understanding legal ideas, institutions, and processes, and as such help to define the salient features of law's social context. Conceptions of "interest" are also crucial elements in explanatory theories. They underpin any analysis of law that is not solely doctrinal and that considers law to be integral to social and economic relations. Thus they are indispensable to any understanding of the causes and consequences of the creation, reproduction, or transformation of law.

This chapter illustrates one way of thinking about interests. The first main section proposes some ways of reconceptualizing interests. Turning to the example of the common organization of the market in sheepmeat, a second section sketches the principal structures involved in the making of the sheepmeat regime. A third section considers some of the ways in which these structures were related to interests.

Reconceptualizing "Interests"

It is useful to begin by sketching briefly the way the interests involved in European Community lawmaking have previously been conceived. We can then develop several propositions that will help us to reconceptualize "interests."

A Paradox

Lawmaking in the European Community presents a challenging paradox. The legislative process, compared with that of other international organizations, is often described as remarkably visible. "Negotiations in Brussels are played out amidst the glare of publicity; agreements when reached are set out in legal phrases and prescribe formal mechanisms for implementation" (H. Wallace 1983:75). Participants in making law on important issues include not only a broad range of European Community institutions, but also a wide variety of individuals, governments, groupings, and interest groups. The representation of some interest groups is highly institutionalized. In addition to numerous EC advisory committees (Economic and Social Committee 1980a), European-level interest groups represent employers, workers, and other interests, both formally and informally (Economic and Social Committee 1980b). The agricultural sector—the subject of the Common Agricultural Policy

(CAP), the major common policy of the EC—is especially well represented, both at the EC level in Brussels and within the (now twelve) Member States (Averyt 1975 1977; Economic and Social Committee 1984; Commission 1986).

Except in this formal sense, however, the nature and role of specific interests in European Community lawmaking remains generally opaque. Our conceptualization of these interests is still relatively ill-defined. This lack of transparency and of clear focus is sometimes ascribed partly to the types of issues or policies in question. A large proportion of Common Market legislation, especially with respect to the CAP, consists of economic regulation. Economic regulatory law is often viewed as concerning inherently technical matters and therefore deemed to require the cooperation, if not the consent, of the regulated groups and other political clients. Consequently, negotiations and compromises on important legislative details occur inevitably outside the public arena (W. Wallace 1983:412; see also Lowi 1972; Gerlich 1986). Thus, while the initial phases of European Community lawmaking may be public and extremely open, the final and critical stages are usually conducted in great secrecy (Butt Philip 1983b:21; see also Donat 1979).

The conflicts and compromises of interest that not only shape but actually constitute European Community legislation have been depicted in several valuable accounts (e.g., Lindberg 1963; Gerbet and Pepy 1969; Rosenthal 1975; Averyt 1977; Feld 1980; H. Wallace, W. Wallace, and Webb 1983). Such accounts, however, are still few in number (Butt Philip 1983a:17). More important, despite their merits they have made in many respects only a limited contribution to our understanding of interests, in either empirical or general theoretical terms. For example, more than fifteen years ago the Common Agricultural Policy was characterized as "an exclusive club, thoroughly defended by impenetrable technical complexities" (Lindberg and Scheingold 1970:160). Since then it has been the subject of more studies than perhaps any other European Community policy. Nevertheless, it was recently described in one of the best studies of EC policy-making as so well entrenched that the economic and political forces that underlie and sustain it remain largely invisible (Stevens and Webb 1983:321).

Furthermore, the development of a more adequate conception of interests in this context has been hindered by the particular orientation and implicit assumptions of policy studies. Since the formation of the Common Market, the study of policy, policy-making, and lawmaking in the European Community has been largely the province of specialists in

policy studies. This field has been dominated successively by the neo-functional, intergovernmentalist, and interdependence approaches (see Webb 1983; George 1985:16–35). Despite substantial differences among them, all three approaches have been limited, as far as the study of interests is concerned, by several shared features. The first was a theoretical focus on European integration, “a process leading toward institutionalised regional unity” (Keohane and Nye 1975:394) and thus a strong teleological orientation. Second, even when (and by) emphasizing the rise of new political actors, they continued to employ a method of analyzing politics that was premised essentially on a rational-choice, utilitarian actor model (see Keohane 1982; Keohane and Nye 1975:391; Hindess 1984). Based on methodological individualism, this conception of politics tended to assume the pluralism of political and economic power. Consequently, it defined interests as policy preferences, utilitarian interests, the fulfillment of needs, or “real” interests based on hypothesized *ex post facto* choices (see Connolly 1972). This notion of interests was based ultimately on the choices of individual agents. Third, even when taking into account not only interest groups but also elites, policy studies have generally failed to relate the role of elites to the class structure, thus assuming an unproblematic relationship between politics and economics (see Holland 1980:90). Fourth, the interdependence approach took into account certain differences in relative power, as in the analysis of the differential vulnerability of actors to changes in rules (Keohane and Nye 1975:370). But as a consequence of its basic model of politics, it failed to consider unarticulated, objective interests. Fifth, these approaches, like other pluralist theories of politics, neglected not only the role of class interests but also the various faces of power (see esp. Lukes 1974). Sixth, in concentrating exclusively on individual actors or organizational structures, they usually failed to consider the level of the system as a whole (see Alford and Friedland 1985).

Some Propositions

In much of the policy studies literature it is often considered, if not simply assumed, that interests antedate structures, that in legislative processes, for example, interests interact within and around structures, and that interests and structures together produce outcomes. A similar view is expressed, from a very different standpoint, in the following: “The concept of political representation involves three elements: the content of what is represented (economic classes and their interests); the means of representation (political apparatuses and organisations); and

the representation itself (the practices of those apparatuses and organisations)” (Cutler et al. 1977:170). Interests are thus frequently used as merely another term, a form of shorthand, for political actors or agents. The state, in this view, is often seen as a neutral structure. A sharp distinction is drawn between form (or structure) and content. The main burden of analysis is on the content of policy, and the formal structures or methods of policy-making (or lawmaking) are not integral to, or determinants of, the content of policy and hence are not problematic (see also Offe 1975:135,140–141). The questions for the analyst, therefore, are (1) What produces interests? (2) How are interests represented? and (3) How do interests interact within structures, and how are they influenced by structures, in producing the outcome?

If we are to develop a more satisfactory conception of the role of interests in making European Community law, we need a different way of thinking about interests. I suggest that, in studying legislative processes, it is more fruitful to consider that interests do not antedate structures and that in specific circumstances interests result largely from structures and processes.

We can illustrate, and perhaps go beyond, this partial reversal of the conventional argument by a simple play on words. The conventional argument may be summarized as follows: interests (pass through) structures (resulting in) outcomes. In this formulation, both interests and structures are given, that is, they antedate the legislative process; and interests, structures, and outcomes are discrete. By manipulating the three terms of this summary statement, we can generate a range of six different and potentially more interesting propositions:

- a. Interests structure outcomes.
- b. Interests “outcome” structures: interests come out of, or at least derive partly from, structures.
- c. Structures interest outcomes: structures have an interest in outcomes, either in the sense of partly determining outcomes or in the sense of having a stake in outcomes, so structures will affect, or try to affect, outcomes.
- d. Structures “outcome” interests: structures come out of interests.
- e. Outcomes structure interests.
- f. Outcomes interest structures: structures have an interest in outcomes, in the sense that outcomes affect structures.

A brief reflection on this list will show that propositions (a) and (e) are reciprocals, (b) and (d) are reciprocals, and (c) and (f) are equivalent.

After performing the necessary operations ($a \leftrightarrow e$, $b \leftrightarrow d$, $c \equiv f$), we are left with three propositions:

1. interests \leftarrow [structure] \rightarrow outcomes
2. interests \leftarrow [come out of] \rightarrow structures
3. outcomes interest structures [structures have an interest in outcomes]

These admittedly crude propositions find wide, albeit eclectic, support in a diverse literature. For example, the first proposition may appear partly to express the classic pluralist conception of pressure-group politics. However, if read, with more attention to the middle term, "structure," as it should be, it indicates not that the clash of interests determines outcomes, but rather that the configuration of interests limits the range of possible outcomes. Thus, market structure, for instance, influences the degree and form of regulation. The same proposition, conversely, encapsulates Lowi's insight that "policies determine politics": "different ways of coercing provide a set of parameters, a context, within which politics takes place" (Lowi 1972:299; see also Daintith 1982:210-217).

The second proposition—if "interests" are defined actively as "agents"—may be seen as a shorthand expression of Giddens's theory of structuration, particularly the duality of structure: "The constitution of agents and structures are not two independently given sets of phenomena, a dualism, but represent a duality. . . . The structural properties of social systems are both the medium and the outcome of the practices they recursively organise" (Giddens 1984:25; see also Giddens 1979:693; Comaroff and Roberts 1981:230). More specifically, this proposition suggests a political definition of interests. Neither states nor corporatist arrangements, so-called "private interest governance"—such as the relationships between the FNSEA and the state in France, or the National Farmers Union (NFU) and the state in Great Britain—simply aggregate or express preexisting interests. Instead, they help to create, shape, and sustain interests (see Hawley 1983:248, 250; Streeck and Schmitter 1984[P]:25; Keohane 1982:330).

The third proposition emphasizes the interrelationship of structures and outcomes. It may be read, first, as referring to Marx's dictum that people "do not make [history] just as they please . . . but under circumstances directly encountered given and transmitted from the past" (Marx 1968:97). Institutions, organizations, and other structures may determine, shape, or condition specific outcomes or, more frequently, the

range of potential outcomes. Structures thus are neither neutral nor simply a framework. Both structures and form influence outcomes, such as policies and laws, but in addition, "fixed, defined interests . . . become embodied in institutions and ideologies in a post hoc manner in and through conflict" (Hawley 1983:250). Past struggles and compromises, as well as continuing conflicts, represent previous outcomes that impregnate and hence shape existing structures.

These three propositions need to be elaborated further, but nevertheless they may be useful in helping us circumvent two analytical difficulties that are frequently encountered in thinking about "interests." The first is the extent to which the term "interests" is commonly associated with pluralist theories of politics. "Interests" often evokes many of the basic assumptions of pluralism regarding the state, law, and society. In their synthesis of the major theoretical traditions in political sociology, Alford and Friedland (1985:30) remark: "Certain concepts have such a heavy historical weight of meaning—connotations, assumptions, hypothesis—buried in them that their use almost commits writer and reader to the implicit (and all the more powerful because of that implicitness) theory about the causes and consequences of the phenomena alluded to by the concept." They argue that the concept of "interest group" is theorized only within the pluralist perspective (*ibid.*, p. 92). Nevertheless, "interest groups" and "interests" are not equivalent. Moreover, it is open to debate whether "interest" is a core concept of the pluralist perspective or whether it is what Gallie (1956) called an "essentially contested concept" (see also Williams 1983:171-173). The three propositions sketched above make room for a more complex, more subtle interpretation of the role of interests.

A second difficulty is the distinction often drawn between structure and agency. The dichotomous form of this distinction tends to grant the two terms a pre-given antinomic status (see O'Malley 1980). It also makes it difficult to imagine any logical relationships between them, except insofar as they are (1) separate and unconnected, (2) poles on a spectrum, or (3) dialectically related. In addition, this distinction, embodying only two terms, neglects any potential influence of outcomes—and hence processes—in creating and reproducing both structure and agency. One of our three propositions incorporates Giddens's significant attempt to transcend the dichotomy of structure and agency by a theory of structuration. Together with the other two propositions, it may help us to avoid what in this context would be an unproductive opposition of subject and object.

Structures

Structures, or structural constraints, are defined by Jessop (1982:252, 258) as "those elements in a situation that cannot be altered by agent(s) in a given time period." This definition, however, postulates too strong a distinction between structure and agency. Structure and agency form a duality. Structures represent outcomes of processes that have previously occurred; they are configurations of interests, congealed at least temporarily in the form of institutionalized sets of social relations. Only a fine line separates structures from processes. They are dialectically related, each being in a sense simply a transformation of the other. Any firm distinction between them depends ultimately on one's purpose and perspective (see also Nelken 1985). We can thus identify three types of structures in the making of the European Community's sheepmeat regime. They concern the economy, the state, and law.

The Marketing Chain

In discussing the structures involved in the making of the sheepmeat regime, it is convenient to begin with the sheepmeat marketing chain (*filière*). The expression "marketing chain" denotes an abstract representation of a portion of the economy. Its purpose is to isolate a certain field, thus facilitating an analysis of its organization and operation. The field is based on a specific product. It includes the units of production, enterprises, or parts of enterprises involved in the production or distribution of the product; services external to the enterprises that aim to regulate or influence the production, distribution, or consumption of the product in question; consumption; and all vertical and horizontal relations between enterprises in the particular field (Lauret 1983:723-733). This conception derives from Marxist political economy, classical economics, and systems theory. It bears a strong resemblance to Marx's (1973:99) notion of the relations of production, the unity of production, distribution, exchange, and consumption, but it is focused on a specific product. In addition, it contains both Marxist and non-Marxist elements, which, as we shall see, are incompatible in some respects.

Elsewhere I have used Marx's conception of the relations of production as an organizing framework within which to analyze relationships between economic and legal change (Snyder 1981). The conception of a marketing chain seems to be helpful, at least provisionally, in identifying and explicating the complex sets of economic relations involved in the

European Community legislative process. It has been widely used in studies of agribusiness, and its utility in the similar context of this chapter is suggested by the increasing internationalization and integration of the world food economy, especially since World War II (see Ghai, Luckham, and Snyder 1987). The "set of activities and relationships which interact to determine what, how much, by what method and for whom food is produced" (OECD 1981:10) is today largely international rather than national in scope. It embraces the provision of agricultural inputs, agricultural production, food processing, distribution and retailing, and household and extrahousehold consumption. The conception of a marketing chain helps us take into account the increasingly systematic nature of the food chain, the great integration of agriculture and industry, and the intimate connection between domestic and international processes. It should also facilitate detailed description and analysis of economic and legal relations in the European Community, which both distinguishes between and integrates different levels of analysis and different levels of abstraction (see Alford and Friedland 1985).

I have defined the sheepmeat marketing chain as a unique entity at the societal level of analysis. It thus is a commodity-specific kind of marketing chain (an institutional type) that is part of the food economy (a systemic entity). Viewed at the greatest level of abstraction, but still at the societal level of analysis, it comprises several segments. These segments are generic (though still commodity-specific) processes, such as production, processing, distribution, exchange, and consumption.

In order to understand how the sheepmeat marketing chain is related to interests, we must also examine it at the organizational and individual levels of analysis. At these levels, we can define the segments of the chain more specifically by distinguishing, within each segment, various elements or instances of different institutional types. Examples of these types include producers of inputs, livestock producers, exporters, importers, transporters, slaughterers, wholesalers, processors, retailers of different kinds, and various institutional and individual consumers. In fact, we must go even further and distinguish, for example, between different types of producers and different types of exporters, importers, and retailers. The former include hill farmers, upland farmers, and lowland farmers in the United Kingdom; peasants and more intensive farmers in France; and New Zealand sheep ranchers. They also include owner-occupiers, landlords, and tenants. The latter embrace multinational companies, large nationally based firms, and small businesses (see, e.g., Boutonnet n.d.; *Pâtre* 1984). These various distinctions may

be made either at the individual level of analysis or at the organizational level.

Any examination at a lower level of abstraction of the organizations and individuals in the sheepmeat marketing chain requires a discussion of unique entities. For instance, after 1860 the international trade in lamb was revolutionized by the development of freezing and shipping technology. Until recently, as already noted, it centered on the shipment of frozen meat from the southern hemisphere to the north, mainly from New Zealand to the United Kingdom (*Agra Europe* 1982:1). The trade was dominated by a handful of large companies (see Critchell and Raymond 1912; Perren 1978). Today the same firms by and large remain important, not only in the south-north trade but also in trade within the European Community. In 1972, for example, approximately 20 million lamb carcasses (300,000–320,000 metric tons) were imported into the United Kingdom from New Zealand. Nine companies accounted for about 85 percent of this trade. Between 55 percent and 60 percent was due to four companies: Thomas Borthwick and Sons Ltd., W. Weddel and Co. Ltd., Towers and Co. Ltd., and C.W.S. Ltd. (*Centre Français du Commerce Extérieur* 1974, 2:106). Borthwick was the largest British (and European) importer of lamb, which accounted for approximately 40 percent of its £164 million meat business. It had subsidiaries and branches in a dozen countries, including New Zealand, Australia, Great Britain, the United States, Canada, Japan, and France (*ibid.*, pp. 129–131). Weddel was the largest importer of meat into the United Kingdom; lamb made up about 30 to 33 percent of its turnover (*ibid.*, p. 133).

Among the slaughterhouses licensed by the British government to export lamb and mutton to France in the mid-1970s were those of the British Beef Company Ltd. and W. Devis and Sons. Both were owned by the Union International Company Ltd., which was controlled by the Western United Investment Company (UK), the holding company of the Vestey family. The Vestey family, like Sir Thomas Borthwick, were pioneers in the use of refrigerated ships and cold-storage depots. They have been described as “the world’s largest retailers of meat, the owners of Britain’s biggest meat importing business, Weddel’s, and biggest meat retailing chain, Dewhurst” (Knightley 1980a:13), with 1,600 retail butcher shops (Commission 1977:95). Through Western United they own or control a wide range of diverse and relatively independent companies, including meat suppliers, importers and exporters, slaughterhouses, cold stores, wholesalers, transporters, and retailers in numerous countries within and outside the European Community, includ-

ing New Zealand, Great Britain, and France (*Who Owns Whom* 1976: 688–689, 695–696; Knightley 1980b:63; Knightley 1981; Cranney and Rio 1974:7, 341–342, 345–352; *Centre Français du Commerce Extérieur* 1974, 2:133–134).

States

A second set of structures, in addition to the marketing chain, was involved in the making of the sheepmeat regime. It consisted of states. Two forms of state structures played a role in this legislative process: the “supranational state,” or European Community, on the one hand, and the nation-states, which are the European Community’s Member States, on the other hand. For reasons of space, I treat them here much more briefly and more formally than the marketing chain.

The European Community consists of three legally distinct entities: the European Economic Community (EEC), the European Coal and Steel Community (ECSC), and the European Atomic Energy Community (Euratom). These Communities share four institutions: a Commission, the supranational bureaucracy, which in fact employs fewer people than the British Ministry of Agriculture; a Council, composed of ministers representing the Member States; an Assembly (now called the European Parliament), which has mainly consultative powers; and a Court of Justice, modeled on the Conseil d’Etat, France’s highest administrative court. Only these four institutions are given legal status as European Community institutions by the Community’s founding treaty. A number of other institutions, however, also played an important role in the making of the sheepmeat regime. Of particular significance was the Special Committee on Agriculture (SCA), a subcommittee of the Council concerned with agricultural matters.

Established by the Treaty of Rome in 1957, the European (Economic) Community initially included France, Germany, Italy and the Benelux countries. The United Kingdom, Ireland, and Denmark became members in 1973. Greece joined in 1979, and Spain and Portugal acceded to membership in 1986. The original Community of Six thus was enlarged to embrace twelve Member States. During most of the sheepmeat regime negotiations, however, the European Community comprised nine Member States.

State structures in capitalist societies are an integral part not only of policy-making but also of the economy. In turn, they depend fundamentally on the accumulation of capital (see Offe 1975:126–127). Each of

these states performed certain functions in the organization of the sheepmeat marketing chain. The French state, for example, allocated financial aid to lamb producers, financed a wide range of agricultural and marketing measures, and exempted from taxation certain revenues earned in cereals production, and then facilitated the investment of these funds in the sheepmeat marketing chain. France's national infrastructural plan for abattoirs, beginning in 1960, was designed partly to shorten the marketing chain and to encourage concentration. By means of classification and marketing schemes and health regulations, it controlled the quality of the product. It also regulated prices, in part through negotiations at the European Community level, and in accordance with European Community law and following the pre-1957 French pattern, it established intervention agencies that purchased surplus products or took other action in order to stabilize the market. Through licensing and deposit schemes, it regulated the flow of imports and exports. Some of these activities were allocative, some were productive (see *ibid.*, pp. 128-129, 132, 136). Most, if not all, took place, at least nominally, within a normative framework provided by European Community law.

Law

Law also formed a structural element in the negotiations leading to the sheepmeat regime. Omitting national law, I consider three aspects of European Community law to be of special importance. The first was the Treaty of Rome, particularly its agricultural provisions and the way in which those provisions have been interpreted by the European Court of Justice. The Rome Treaty, the European Community's constitution, provides for adoption of a common agricultural policy (see, generally, Snyder 1985a). Together with the "four freedoms" concerning the free movement of goods, services, and capital and the projected common transport policy, agriculture is, from the legal standpoint, one of the "Foundations of the Community" (Treaty of Rome, part 2). The objectives of the common agricultural policy are defined in the Rome Treaty (art. 39(1)):

- (a) to increase agricultural productivity by promoting technological progress and by ensuring the rational development of agricultural production and the optimum utilisation of the factors of production, in particular labour;
- (b) thus to ensure a fair standard of living for the agricultural commu-

nity, in particular by increasing the individual earnings of persons engaged in agriculture;

- (c) to stabilise markets;
- (d) to assure the availability of supplies;
- (e) to ensure that supplies reach consumers at reasonable prices.

These objectives are complex and to a great extent contradictory. They have been interpreted by the European Court of Justice so as to give priority to the maintenance of producers' incomes over increasing agricultural productivity or maintaining a given level of consumer prices. The link between farm income support and structural change has been given little official recognition.

The second structural aspect of law includes the legal principles, the major policy decisions, and the legal and institutional core of the Common Agricultural Policy. The basic principles of the CAP are the inclusion of agriculture in the European Community scheme, the exceptional status of agriculture with regard to general Rome Treaty rules, the adoption of a common policy for agriculture, unity of the market, and financial solidarity (see Snyder 1985a:15-16, 23-39). The major policy decisions concerning the CAP were made during the 1960s. Of central importance were the basic tenet that agricultural incomes were to be supported through market and price policy; agreement on a relatively high common price for the key commodity, cereals; and adoption of a European-wide market organization as the only form of common organization of the market, even though two other forms were legally possible under article 40(2) of the Rome Treaty.

The common organization of agricultural markets, together with the price system and related financial mechanisms, form the core of the CAP (see *ibid.*, pp. 71-121). A market organization has been defined by the European Court of Justice as "a combination of legal institutions and measures on the basis of which appropriate authorities seek to control and regulate the market" (Joined Cases 90 and 91/63, *Commission v. Luxembourg and Belgium* [1964] ECR 625 at 634). Each market organization (often called a "regime") is constituted by a single Council regulation, supplemented as necessary by Council and Commission regulations specific to each product. In addition, "horizontal" regulations applying to all products have been adopted by the Commission with regard to common questions, such as licenses and export levies. These legal elements formed an important part of the *acquis communautaire*. Together with the principle that any difficulties would be resolved by

transitional measures, they were taken for granted in the negotiations between the Six and later applicants for membership, including the United Kingdom and Ireland.

A third aspect was the ideology of CAP law. European Community law concerning the Common Agricultural Policy embodies a sharp distinction, common to many legal systems, between industry and agriculture. Agriculture is treated as a specific economic subsector, to some extent with its own rules, regulatory procedures, and processes of change. This conception of the distinctive nature of agriculture, and its discreteness in relation to the rest of the economy, is the basis of the Common Agricultural Policy. Yet CAP law itself is deeply contradictory. On the one hand, the legal distinction between agriculture and industry does not correspond to the technical economists' distinction or to popular stereotypes. On the other hand, the basic conceptual framework of the CAP is continually being undermined, partly by the very legal measures that are adopted under the aegis and in the name of this framework. The conceptual distinction between agriculture and industry, as expressed in European Community law, is thus the skeleton of a general ideological framework, which organizes and legitimates political discourse, European Community and national laws, and other social practices. It forms a kind of flexible grid, the movable structure of a powerful ideology, one that legitimates and partly masks the mechanisms—and sometimes the direction—of change (see Snyder 1987a).

Interests

So far we have been looking at various structures and it has been suggested that past conflicts of interests and previous outcomes are congealed, at least temporarily, in structures. Including but not limited to organizations, structures thus represent the mobilization of bias (Schattschneider 1960:71). We now turn to the converse—namely, some of the ways structures create, shape, and otherwise influence interests.

Objective Interests

Structures define, delimit, and shape objective interests—that is, interests that are not necessarily reducible to or dependent on individual consciousness (Balbus 1971:152–154; Jessop 1982:256; Dahrendorf

1959: 174, 178). Class interests deriving from the relations of production are one kind of objective interest, but not the only kind. Here, however, I refer primarily to this kind of objective interest, partly because of its complex interconnection with the marketing chain and partly because of its basic significance in capitalist societies.

The concept of objective interest is important in a study of the making of European Community law. First, the principal socioeconomic process in capitalist societies, viewed at the systemic level, is the accumulation of capital. At the systemic level, this process generates two general classes, which are the referents of a concept of an objective interest. The notion of objective interest thus reminds us of a particular level of abstraction, the systemic level (see also Snyder 1987b). This level of abstraction has often been neglected in studies of European Community law, especially those carried out within the framework of policy studies. The latter, as already noted, have been based mainly on pluralist theories of politics. Pluralists have concentrated primarily on the exercise of power rather than on its sources (Bachrach and Baratz 1962:948). They have therefore often failed to recognize even the existence of objective interests.

Second, the notion of objective interest points to ways in which the systemic process of the accumulation of capital, and the related systemic distinction between different classes, are manifested, and can be identified, at more specific levels of abstraction and at different levels of analysis. These other levels of abstraction refer to institutional types and specific entities; the levels of analysis include the societal, organizational, and individual levels (see Alford and Friedland 1985:16–21). Consider three examples. (1) The state is an institutional type at the societal level of analysis:

Its power relationships, its very decision-making power, depends . . . upon the purpose and continuity of the accumulation process. . . . The criterion of the stability of accumulation is thus incorporated in the pursuit of interests and policies that, considered by themselves, may have little or nothing to do with accumulation. Accumulation, in other words, acts as the most powerful constraint criterion, but not necessarily as the determinant of content, of the policy-making process. (Offe 1975: 126)

Though referring primarily to the state in the sense of the European Community's Member States, this general point, as recent events have demonstrated, applies with equal force to the European Community. (2)

In the European Community and its major trading partners, "organisations representing labour and capital are not simply groups like any others. They are both less variable in their identification of interests and more powerful in relation to other groups" (Berger 1981:13; see also Offe 1981). (3) Research on state intervention in agriculture usually concentrates on the determination of farm prices and their effects on farmers. Yet a study of French agriculture recently concluded that what was really at stake was the distribution of the added value created by different segments of the marketing chain (Pivot 1985:86). In the light of our analysis, however, we must push this point further. It is necessary to distinguish not only between various segments, but also between the position of different class interests.

Third, the notion of objective interest identifies interests that are often not expressed or articulated but that are nonetheless crucial determinants of or influences on the legislative process and the content of legislation. My research on the sheepmeat regime tends to support many of the criticisms that have been made of studies of dispute-processing (see Cain and Kulcsar 1981-82; Kidder 1980-81; Starr and Yngveson 1975). The key actors are not individuals; indeed, the use of the pluralist perspective to analyze such processes is often misplaced. Actors, however they may be defined, are not equal in socioeconomic strength, political power, or legal resources. This is apparent even from my brief sketch of the sheepmeat marketing chain. Instead, the most useful insights come from focusing on the organizational and societal levels of analysis—that is, on firms and states. Insights also result from moving to more general levels of abstraction—in other words, by considering not only specific entities or, what is more common, institutional types, but also systemic entities or generic processes, such as classes, class conflict, and class formation. This is particularly important when, as is common, disputes are not discrete.

In fact, once one moves away from the notion that intra-EC disputes are mainly between Member States, it is not easy even to identify the participants precisely. Our understanding is obscured in part by individualist, behavioralist, and intentionalist assumptions and connotations, which, as Lukes (1974:39) has pointed out, often seem to be built into the expressions we use when speaking about power. Although policy-making in the European Community is often described as remarkably open, it is sometimes difficult to find out very much about even the subjective interests involved. Consequently, it is essential to consider the possibility that the most important interests in the legislative process are not represented, directly or publicly.

In order to develop some of these points, let us consider two hypotheses. First, the interest of large firms, despite occasional, issue-specific lobbying through trade associations or individually, remain largely invisible but are nonetheless important. Except on rare occasions, such firms do not need to mobilize or express their interests publicly. This is the case particularly in highly concentrated sectors or segments of the marketing chain. In such contexts, some firms are so powerful that it is virtually unthinkable that, except in the very short run, legislation would go directly counter to their objective interests or subjective demands in any real sense. This, as Crenson (1971) found in a study of U.S. Steel, is power without participation or publicity. It derives, in part, from the ways in which the interests, claims, and expectations of such firms are already built into the history, structures, processes, and ideologies of the European Community and the CAP (see also Hawley 1983:250). The latter are implicitly oriented in favor of such interests. Products (or outcomes) of interests, these histories, structures, processes, and ideologies in turn reinforce these interests, thus contributing to the reproduction of the hierarchy of power relations.

These interests in effect exercise a determining influence on the agenda and content of policy-making and lawmaking. They do so in three distinct ways. The first, by far the least important, is through political participation by individuals, groupings, and groups in the making of decisions on key issues. The second is by non-decision-making: "the practice of limiting the scope of actual decision making to 'safe' issues by manipulating the dominant community values, myths, and political institutions and procedures" (Bachrach and Baratz 1963:632; see also Bachrach and Baratz 1962; Wolfinger 1971a, 1971b; Frey 1971). The third does not require the existence of grievances or disputes, nor does it necessarily occur through decisions. It is by institutional control over the political and legal agenda (see Lukes 1974).

A second hypothesis is that the structures described earlier in this chapter give rise to particular objective interests. For example, Murray's functionalist thesis distinguishes between six public functions that it is in the interest of capital to have performed, whether by a home state, a grouping of national governments, or an international organization (Murray 1971). These functions include the guarantee of property rights, economic liberalization, economic orchestration, provision of inputs, intervention for social consensus, and the management of external relations. Capital is not, however, homogenous. The objective interests of a capital in the types of public functions to be performed and the bodies to perform them will differ, in Murray's view, according to the

particular capital's degree of productive centralization, the state of overseas company development, the forms of international flows, the degree of dependence on state partiality, and the strength of foreign competition (see *ibid.*).

Such differences in objective interest may be refracted, at the organizational level of analysis, in different degrees of support for or opposition to European Community policies and laws. Holland argues: "the specific interests of sections within the main classes [of capital and labor] are related to different functions served for them by national state power, supranational institutions and international integration" (Holland 1980:104). He distinguishes between multinational and national capital and between large and small enterprises. In his view, large-scale multinational capital has an objective interest in supporting negative integration, such as the removal of tariff barriers. Large-scale national capital, by contrast, has an objective interest in maintaining its home state's capacity to provide positive integration in its favor and to prevent or obstruct harmful negative integration. Similarly, small capital relies on its home state, not on the European Community, to protect it against the effects of increased liberalization and competition (see *ibid.*, pp. 98-99, 104, 109, 112-113).

We can transpose these differences into a legal framework by distinguishing between standard rules and special rules. In the European Community, the standard rules are those enshrined in the Treaty of Rome, mainly in the provisions regarding what Holland calls negative integration. Those provisions concern the free movement of goods, services, labor, and capital. Special rules, in contrast, establish exceptions to or exemptions from the standard rules, or supplement them. Large multinational companies have an interest in securing compliance with standard rules. Agricultural producers, especially small farmers, have an objective interest in obtaining special rules; note that, as already outlined, agriculture as a whole is treated in the Treaty of Rome as a special sector. States, depending on the particular circumstances, may variously have an interest in enforcement of the standard rules, in special rules, or in some combination of the two. States that are not part of the European Community, such as New Zealand, have an objective interest in obtaining special rules, but such special rules differ from special rules within the European Community context. They constitute exceptions to the protectionist rules that usually apply to countries not in the European Community, but at the same time they embody the basic assumptions of the free movement of goods that are expressed in

the Treaty's standard rules. We can thus understand why, in the words of a *Guardian* headline (October 31, 1979; p. 14; see also Wendling 1985:282), Great Britain's strong suit during the 1978-80 "lamb war" was jurisprudence while France's was the art of the possible.

Subjective Interests

But objective interests do not develop automatically into subjective, consciously expressed interests, such that, for example, in Marxist terms, a "class-in-itself" must necessarily become a "class-for-itself." Location in the relations of production does not therefore necessarily entail any specific class position in political struggles. In other words, there is no universal, invariant correlation between objective and subjective interests (see also Przeworski 1977; Snyder and Hay 1987). Instead, objective and subjective interests are dialectically related. An analysis of European Community lawmaking with regard to class interests, for example, must therefore adopt two distinct but related notions of class forces: one referring to structural determination, the other referring to class position (see Jessop 1982:242-256).

Although the structures that define or delimit objective interests do not automatically determine subjective interests, they nevertheless influence and shape them. Structures may "involve differential patterns of association and interaction and impose definite limits on the success of particular class projects, strategies and tactics" (*ibid.*, p. 242; see also Jessop 1983). For example, by the early 1970s the FNSEA in France and the NFU in Great Britain had long been engaged in agricultural policy-making and lawmaking in neocorporatist arrangements with their respective states (see, e.g., Wilson 1979; Grant 1983a; Keeler 1981a, 1985). These structural arrangements, or forms of "interest intermediation" (Schmitter 1979:36; see also Gilb 1981; Olsen 1981; Lane 1985), did more than simply allow for the expression of interests; they actually created interests, both objective and subjective. Of course, this kind of interest, due to neocorporatist arrangements, is sometimes less significant in politics than objective, structurally determined class or other interests.

This discussion suggests two hypotheses concerning the relationship between objective and subjective interests. First, the greater the integration of the marketing chain (for a particular commodity), the more likely it is that the segments will produce a coincidence of objective interests. This coincidence of interests may or may not override objec-

tive interests deriving from the structural determination of classes. Second, the stronger the neocorporatist arrangements for policy-making and lawmaking in a given economic sector, the more likely it is that the segments that participate in these arrangements will articulate a common subjective interest. Viewed against the wide range of objective or subjective interests that might be incorporated in such arrangements, this common interest is necessarily "partial, incomplete and highly contradictory" (Hawley 1983:249). The state's role in such arrangements is selective, however, not that of a neutral arbiter or broker of other interests.

National Interests

The coexistence of national and European Community structures produces what in the context of EC policy-making and lawmaking are often expressed as "national interests." Different and often contradictory and conflicting objective and subjective interests thus are represented as a single, apparently coherent subjective interest. Such an expression is conditioned partly by the structure of European Community institutions. The making of the sheepmeat regime involved the Commission, the Council, the Special Committee on Agriculture, the European Court of Justice, and later the Sheepmeat Management Committee. Within most, if not all, of these institutions, the types of interests defined as legitimate, both organizationally and ideologically, were "national" in character. All the interests that were expressed subjectively, even before the Commission and the European Court of Justice, were therefore expressed as "national interests."

The conception of "national interest" is, however, extremely problematic. In most of the approaches to European Community policy studies, it tends to dissolve. The interdependence approach, for example, has often viewed the state, considered as a unitary political actor, as much less significant than either nongovernmental actors or transgovernmental relations. According to this approach, even when the existence of various domestic interests is admitted, these interests are assumed to be subordinated in a hierarchy of "national interests," paramount among which is national security. Yet when national security is not in question, as in economic matters, the conception of a single, overriding "national interest" is difficult to sustain. The standard proposition that "states act in their self-interest" begs two basic questions: "What self?" and "Which interest?" (Keohane and Nye 1975:398). Ac-

cordingly, proponents of the interdependence approach often argue that governments are best considered as coalitions of bureaucracies, loosely organized in a hierarchical manner, with each bureaucracy having its own interests (see *ibid.*, pp. 398-399). This bureaucratic politics approach, however, denies the totality of the state (Krasner 1984:224).

At least two authors have tried to go further in analyzing the meaning of the "national interests" created in European Community policy-making. For example, Helen Wallace believes that national interest refers to the amalgam of individual vested interests and potential gains woven into the fabric of European Community policies: "Herein lies the essence of national interest in the context of Community bargaining. Community politics, like national politics, consists of a framework and a process through which the participants seek to attain their separate objectives and to conserve the status and material gains that they regard as appropriate" (H. Wallace 1981:114). More specifically, with regard to the CAP, Harvey believes the most significant aspects of national interest to be farm income levels, improvement of farm incomes, the costs to consumers or users of agricultural support, and the cost to taxpayers of agricultural support. The relative weight of these components in each country are determined by the structure and well-being of agriculture, the general economic environment, and the political and social environment (see Harvey 1982; H. Wallace 1981:122). Within this general framework, Harvey identifies the principal goal of agricultural policy as that of "achieving the lowest level of agricultural prices that is politically acceptable and consistent with the major aim of such policies, namely maintenance or improvement of agricultural income levels" (Harvey 1982:179).

These two authors are concerned with different levels of analysis, but their views of the meaning of national interest have several features in common. They tend to support the conclusion that policy-making (and hence lawmaking) in the European Community involves "jointly produced individual interests" rather than "common interests" (Scharpf 1985:33). They presume a pluralist theory of politics. They employ a rational-actor model of decision-making. They focus almost exclusively on subjective interests. Finally, they assume the existence of a "national interest."

The meaning of national interest may be illuminated further by referring briefly to an analogous, if not equivalent, concept—that of "public interest." The meaning of public interest has been particularly controversial, and therefore continually debated, in the field of industrial

relations. Pluralist students of industrial relations, like pluralist theorists of politics, commonly make three assumptions (see Hyman 1978:20–21). First, economic (and therefore political) power is widely dispersed. Second, despite this lack of concentration, it makes sense to talk of a “public interest.” Third, a relatively impartial guardian of the public interest is the state. Each of these assumptions has been hotly contested (see Rees 1982). Hyman, for example, analyzes the ways in which the expression “public interest” has historically been used in British political discourse. Appeals to a notion of “public interest” rest on an organic conception of society. In a capitalist society, however, concepts of public interest in the domain of labor law will in Hyman’s view be synonymous with employer interests—that is, with the interests of capital (see Hyman 1982). Yet if one accepts the general framework of a capitalist economy, appeals to a public interest are perhaps not all merely rhetorical. At the very minimum, “within an individual nation state there is a general interest in the continued self-expansion of national capital” (Crouch 1982:107). This may be so even though certain groups benefit much more than others and even though the determinants and the specific meaning of the public interest vary through time (*ibid.*). In addition, the “national interest” may also reflect a particular historical and cultural reality vis-à-vis other nations; the state thus may act as a means of international redistribution (White 1984:99).

The discussion thus far suggests three conclusions concerning the meaning of “national interest.” First, the identification of a national interest is inevitably political. Even within a single nation or state it involves controversial, value-laden, distributive issues. Second, in any particular situation it is extremely difficult to discern a clear national interest. This is especially likely to be the case in a complex, multitier system of lawmaking, such as the European Community. Third, if the conception of a national interest has any core meaning, it lies at the societal level of analysis. In capitalist societies this core meaning centers on the accumulation of capital. A similar conception of national interest is embodied in Hawley’s notion of “state overview interests,” “the policy result of the imperatives of accumulation and legitimation, as interpreted through the visions of a dominant ideology or ideologies of its leadership” (Hawley 1983:251). Fourth, and correlative, the aims or interests of specific individuals or organizations do not embody or represent the “public” or “national interest,” which can be distinguished from and contrasted to putative “private” or “special interests” (compare Wilson 1979; Pearce 1983). Instead, at these levels of analysis, we must

necessarily consider the particular relationships of different types of capital, viewed at different levels of abstraction, to the state.

Conclusion

This chapter represents an attempt to think about “interests.” The purpose is twofold: to explore an aspect of the social matrix of European Community legislative processes, and to lay part of the groundwork for subsequently mapping the bargains (see Strange 1982) that made up the sheepmeat regime. I have concentrated especially on the relationship between structures and interests. Structures, in the sense in which I have used the word here, are simultaneously representations of previous outcomes as well as frameworks, influences, and sometimes determinants of continuing conflicts and compromises. They do not necessarily determine interests, and neither are they the only factors that shape or create interests. Moreover, in the European Community as elsewhere, patterns of lawmaking concerning different issues may vary substantially (see Keohane and Nye 1975:395–406; H. Wallace 1983:53). Nevertheless, this discussion suggests several conclusions concerning how we must approach the subject of “interests” in relation to the lawmaking process.

First, interests must be analyzed neither as antecedent to structures nor as entirely distinct in nature from outcomes. Instead, they need to be seen as created, reproduced, and transformed both by structures and by outcomes. These processes occur, for example, by means of various forms of “proceduralization” (Schaffer 1982), which include determination of the schedule, timing, or rhythm according to which issues are considered; determination of the agenda, defining which issues are to be discussed and thus within what range decisions can be made; and determination of the arena, audience, group, or institution that is to influence, transform, or actually make a decision.

Second, our thinking about interests must go beyond the frameworks imposed by concepts of pressure groups, neocorporatist arrangements, or simple class interests. The concept of a pressure group is itself an analytic notion, implicitly if not explicitly part of a pluralist theory of politics. Neocorporatist arrangements are actually designed, in part, to create interests. But neither is it sufficient to posit the existence of subjective class interests that derive directly and solely from objective relations of production. Instead, interests must be analyzed in a rela-

tional context, one that recognizes the dialectical connection between objective and subjective interests.

Third, thinking about "interests" is another way of thinking about power. In delimiting different types of interests, it is necessary always to bear in mind the three faces of power (Lukes 1974). These different faces of power embody different types of interests. In this context, interests are understood as a stake, a concern, an involvement, or a necessarily or potentially affected relation. Power is often considered as shaping interests, which simultaneously influence the exercise of power. But in addition, as I have tried to show, "power" is in some senses merely another word for "interest," while an interest often amounts to a form of power.

Finally, the interrelationship of structures, outcomes, and interests needs to be understood at different levels of analysis and at different levels of abstraction. For example, structures help to create interests at the individual, organizational, and societal levels. States, law, and the marketing chain thus established, modified, and shaped various interests in the making of the European Community's sheepmeat regime. Conversely, this lawmaking process and its legislative outcome were ways of producing, reproducing, and structuring interests.

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PART III

Receiving and Rejecting National Legal Processes