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Armin Schäfer

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A new form of governance? Comparing the open method of co-ordination to multilateral surveillance by the IMF and the OECD

Armin Schäfer

ABSTRACT The open method of co-ordination (OMC) has received much attention in the recent EU literature. The predominant view claims that the OMC is not only a new but also an effective policy-making instrument. This paper raises doubts about both claims by offering a comparison of soft law policy co-ordination in three international organizations. More specifically, this paper compares the European Employment Strategy to the Broad Economic Policy Guidelines of the EU, the OECD Economic Surveys, and the IMF Article IV Consultations. Based on expert interviews, it seeks to demonstrate that these procedures are forms of multilateral surveillance that do not differ in kind. Such a comparative analysis of the OMC refutes claims to its novelty. Having compared the four procedures, a more general model of multilateral surveillance consisting of six elements is generated that facilitates further comparisons. This paper concludes that governments select voluntarist procedures mainly to secure their own competencies rather than to realize common goals. Effective problem-solving is therefore not necessarily the dominant objective of soft law.

KEY WORDS European Employment Strategy; Lisbon Strategy; neo-voluntarism; open method of co-ordination (OMC); peer review; soft law.

1. INTRODUCTION¹

The study of the European Union (EU) has moved from the question of what factors explain the integration process to how the European polity functions. While the former question was at the heart of the debate over neofunctionalism and intergovernmentalism, scholars in the 1990s began to ask how policy-making works in this multi-level system of governance, analysing the problem-solving capacity of the EU (Jachtenfuchs 2001). Taking this development one step further, the question emerged as to how the European level impacted on pre-existing national politics, policies, or even polities. Rather than looking at the reasons why states choose integration, more recent analyses have focused on how decisions on integration, once taken, feed back into the national arena. Accordingly, we have witnessed shifting foci from integration to governance to ‘Europeanization’.

As a consequence, less attention has been paid to comparing EU policy-making to that of either states or other international organizations. Since the EU is treated as a construction *sui generis*, comparisons to other political systems seem futile. However, as Hix (1998: 54–5) points out, many features of the EU are open to comparison if we do not aspire to find a general theory of the Union at large.

In the literature on the open method of co-ordination (OMC) the neglect of systematic comparisons is particularly pronounced. Attention is almost exclusively paid to the question of whether and to what degree this mode of governance enables policy learning or even a convergence of welfare state policies (Ferrera *et al.* 2000: 67; Régent 2002: 20).² Many studies implicitly follow a functional logic that accounts for the causes in terms of their (anticipated) effects. For example, Radaelli (2003: 52) maintains that the OMC as an ‘ideal type’ could deliver better governance, although he cites hardly any evidence that it has already done so. In fact, he states that the actual practice differs considerably from the conceived ideal. Even though it is frequently noted that the OMC is a form of peer review, there are no studies to date comparing it to similar procedures in international organizations. While scholars have detected a family resemblance with peer review, we still lack an understanding of how similar or dissimilar these procedures actually are.

This paper seeks to fill this void by comparing the European Employment Strategy (EES) – the first instance of the OMC – to the Broad Economic Policy Guidelines (BEPG) of the EU, the Organization for Economic Co-operation and Development (OECD) Economic Surveys, and the International Monetary Fund (IMF) Article IV Consultations. It seeks to show that, despite differing emphasis, they are all procedures of multilateral surveillance. They have common features distinguishing this mode of policy-making from other ones, such as the Community Method of the European Union, which is characterized by: (a) the Commission’s monopoly of the right of initiative; (b) widespread use of qualified majority voting in the Council; (c) an active role for the European Parliament; and (d) the uniform interpretation of Community law by the Court of Justice (cf. Wallace 2000: 28–9).

The argument proceeds in five steps. The next section looks briefly at some of the expectations directed at the OMC. It points out that we lack a coherent understanding of what kind of policy instrument the OMC is. Therefore, the subsequent section juxtaposes four instances of economic policy co-ordination in international organizations. This comparison is based on thirty expert interviews conducted by the author in 2002 and 2003. Staff of the OECD, the IMF, the European Commission and national ministries were asked about the conduct of each procedure. Based on this comparison, section 4 identifies six common features of multilateral surveillance that will allow for further inquiries into different ways of internationally co-ordinating national policies. This leads in section 5 to the question of why the EU from the 1990s onwards increasingly relies on soft law to achieve its goals. A preliminary answer is that soft law offers distinct advantages mainly for national governments. They are enabled to reach

an agreement without having to fear its consequences. Finally, the conclusion examines what we can learn about the effectiveness of the OMC by comparing it to policy co-ordination by other organizations.

2. PROMISES OF THE OMC

With the March 2000 Lisbon summit, the OMC became the key to action in areas where a treaty base was lacking but a common concern was perceived. Currently, it is applied to more than ten policy areas, e.g. social inclusion, education, pensions, and R&D policies (Hodson and Maher 2001: 726). The Lisbon European Council defined the core elements of the OMC. It involves:

- fixing guidelines for the Union combined with specific timetables for achieving the goals set in the short, medium and long term;
- establishing, where appropriate, quantitative and qualitative indicators and benchmarks against the best in the world, and tailored to the needs of different member states and sectors as a means of comparing best practice;
- translating these European guidelines into national and regional policies by setting specific targets and adopting measures, taking into account national and regional differences;
- periodic monitoring, evaluation and peer review, organized as mutual learning processes.

Moreover, the OMC is seen as the appropriate way to secure the new strategic goal agreed upon in Lisbon. Until 2010, the EU will strive to become 'the most competitive and dynamic knowledge-based economy in the world, capable of sustainable economic growth with more and better jobs and greater social cohesion'. A particularly important role is assigned to modernizing the European Social Model through the OMC. The ultimate goal is full employment in Europe (European Council 2000: § 5 and 6).

Yet, it is not only politicians who pin their hopes on the OMC. In the scientific literature the following expectations are formulated. The OMC is supposed to:

- enhance policy learning through benchmarks and best practices (Pochet *et al.* 2001: 293);
- transform bargaining into deliberation (Eberlein and Kerwer 2002) and create a European public sphere (Sabel and Zeitlin 2003: 25);
- foster social policy convergence in the long run (Rodrigues 2002: 22); or 'recalibrate' European welfare states (Ferrera *et al.* 2000).

However, there is to date no convincing empirical base for evaluating the effectiveness of the OMC in terms of its legislative output or outcomes. Proving its effects is methodologically difficult because it is hard to establish what would have happened without it and possible positive effects only become visible in the medium to long term. Even the official evaluation of the EES after five years stresses the difficulty of isolating its effects from the general economic

cycle, on the one hand, and from policy initiatives that originated from different sources, on the other hand (cf. European Commission 2002c).

An important empirical study shows that in Denmark and Sweden (two good performers according to the Commission) the EES procedures have little direct bearing on domestic policy-making. The EES 'is administered by international offices which work much like diplomatic missions: they represent national policies and interests in a European process, but have little direct influence on what actually happens in their domestic labour markets' (Jacobsson and Schmid 2002: 87). From the perspective offered in this paper, this result does not seem too puzzling. Rather than focusing on the national impact of this mode of governance, we have to understand first what kind of policy instrument the OMC is. Thus, I seek to better comprehend the OMC by analysing similar procedures of multilateral surveillance of the IMF and the OECD.³ While the similarity of the OMC to these organizations' practices has been noted (Borrás and Jacobsson 2004: 188) and though Wallace (2000: 32) calls the OMC the 'OECD technique', no systematic comparison exists to date. This paper seeks to demonstrate that the OMC does not differ in kind from other procedures of multilateral surveillance, even though it is more stringently applied.

3. PROCEDURES OF MULTILATERAL SURVEILLANCE

This section gives a summary of how international organizations monitor their members' behaviour. Therefore, the OECD's Economic Surveys, the IMF's Article IV Consultations, the BEPG and the EES of the EU will be examined. This section is based on expert interviews and a study of the available documentation on the organizations' work. The aim is to construct for future use a general model of multilateral surveillance which invites further empirical analyses.

OECD economic surveys

Ever since its formation in 1961, the OECD has sought to ensure that its member states follow the code of conduct for sound economic policies laid down in the OECD Convention. This is achieved through regularly monitoring and evaluating the economic situation in the member states and their respective policies. Thus, every twelve to eighteen months the OECD produces an Economic Survey for each country. Such a report results from a detailed surveillance procedure (cf. Marcussen 2004).

The OECD's multilateral surveillance is a two-tiered process.⁴ It consists of a preparatory and a discussion phase. Any country report is prepared by a country desk in the Economics Department of the organization. The process starts with a detailed questionnaire being sent to the country concerned. In answering the questionnaire, national administrations inform the OECD staff about recent economic developments, their forecasts and the underlying assumptions.

Moreover, a country can state how it strives to solve economic problems or which policy initiatives are currently being prepared.

However, since data demand explanation, a staff team visits the country for a 'scouting mission'. On site they gather further information and meet officials from key ministries, the central bank, social partners and scientific institutes to gain a better understanding of the host country. During the scouting mission few political discussions take place. Instead, the mission is geared towards obtaining relevant information. The OECD staff then prepare a first draft for the country survey. This draft already includes an assessment of major problems and an evaluation of the appropriateness of a government's action. Any country survey follows a general structure of: (1) assessment and recommendations: recent trends, prospects and macroeconomic policy requirements; (2) an overview of structural policy developments, key challenges and implementation of structural reforms; and (3) a country-specific special chapter (e.g. on public sector spending, ageing, environmental sustainability) (Nottage 2002: 21–2).

Approximately three months after the scouting mission another one is scheduled. It follows up on the first and is based on the draft Economic Survey. The OECD staff specifically address a country's weaknesses and vulnerabilities. There is a twofold purpose to the second mission: updating information and initiating policy discussions. A mission ends with bilateral discussions between the OECD and the national authorities. The OECD team presents its assessment to high-ranking national officials who respond in turn.

After returning to Paris, the team then prepares a final draft of the Economic Survey. It will be distributed to all member countries about four weeks prior to the multilateral discussion in the Economic Development and Review Committee (EDRC). At this point, the bilateral preparatory phase ends.

The discussion then moves to the EDRC (cf. OECD 2002). Each member state sends representatives to this committee, which is an intergovernmental body which decides on the principle of unanimity. Crucially, the EDRC is responsible for publishing the Economic Survey, not the OECD Secretariat. Two reviewers are assigned to every examined country to lead the discussion. An EDRC meeting usually begins with a statement of the country under review. A government delegation (ten to fourteen people) explains its view of the OECD staff's report, pointing out disagreements, possible mistakes and generally defending the course chosen. Subsequently, the reviewers have the chance to pose questions before a general discussion starts. The entire procedure is motivated by peer review and peer pressure. Any government has to come up with reasonable arguments for its behaviour and defend its own policies in the light of probing questions. While diplomatic in tone, participants do not shy away from voicing concerns and critique. These multilateral discussions are directed at redrafting the survey in a way that all governments can eventually agree to it. Therefore, the chair produces a summary of the discussion, on which the survey's redrafting is based. A country examination in the EDRC usually lasts between half a day and a day.

The redrafting takes place during the next couple of days. In this regard, the first section of the Economic Survey – 'assessment and recommendations' – is

all that counts as it summarizes the OECD critique. Any country tries to amend this section of around twenty pages as much as possible, haggling over the general message adopted and even over single phrases – a feature common to all four procedures. However, once the OECD staff and the examined country reach an agreement, the redrafted country survey will again be sent to all other members. It can only be published after they too have consented. This procedure serves as a safeguard against excessive redrafting and thus a change in the stance the EDRC as a whole had taken.

Finally, an Economic Survey is published. A press conference announces its publication to draw attention to it. The publication ensures that public pressure supplements peer pressure.

IMF Article IV consultations

The IMF is best known for the credits it grants to countries facing financial crisis. In these cases, the IMF has considerable power to impose its policy advice. However, the most advanced countries hardly ever have to make use of their drawing rights and, therefore, it is much harder to influence their economic conduct. At the same time, it seems particularly desirable to make sure that their policies are not in conflict with the general growth objective of the world economy because their behaviour invariably has the greatest impact on this. The means chosen for the co-ordination of national policies are, once more, monitoring and peer pressure. The IMF is requested to exercise ‘firm surveillance’ of the exchange rates of its members who, in turn, shall provide the Fund with ‘all the information necessary’ (Articles of Agreement, Art. IV). Both goals are achieved by an annual multilateral surveillance procedure. These so-called Article IV Consultations were introduced with the second amendment of the original IMF Articles of Agreement which came into force in 1978 (de Vries 1985: ch. 43).

As with the OECD Economic Surveys, we can distinguish a preparatory and a discussion phase. The procedure also involves a mission, bilateral consultations, a staff report with recommendations, and multilateral discussions. As a first step, the country desk produces a ‘mission brief’ with a general assessment of the reviewed country. Various departments check this document to make sure that it is in line with the overall IMF policy.

The actual mission to the member country begins roughly two weeks later. An IMF delegation, consisting of four to five people, visits the country for one or two weeks. Very much like the OECD team, they meet officials from different ministries, the central bank, the social partners, and scientists. Country officials inform the IMF delegation about recent economic and political developments, planned activities and their current forecast for taxes, unemployment, public spending, etc. A good deal of the work done during a mission consists of ‘getting the numbers right’. The mission concludes, however, with bilateral discussions with high-level officials (both the Minister of Finance and the head of the central bank usually participate). The IMF delegation presents

its 'concluding statement', which summarizes its views on fiscal and economic policy and contains policy recommendations. In turn, the officials comment on the concluding statement. If there are differences in opinion, the IMF team has to report on them afterwards.

In Washington, the head of the mission writes a 'back-to-office report' which informs the Fund management of the mission's results. Additionally, the country desk writes a staff report containing: (1) information on the economic situation of the reviewed country; (2) policy recommendations; (3) an account of the policy discussions; and (4) the final staff appraisal. The preparatory phase ends with the staff report. About a month later, the Executive Board discusses this report. This is the occasion when multilateral discussion takes place. However, this peer review is less formalized than in the EDRC as there are no pre-appointed reviewers and no government delegation participates. Instead, the permanent representatives of the reviewed country take on that role. The member state's policies are discussed for about half a day on the basis of the staff report.

Unlike the OECD, there is no need to come to an agreement. In many cases, Executive Directors disagree and different views enter the chair's 'summing up', a document subsequently sent to the national authorities.⁵ This summary account is also published as a Public Information Notice. Discussions are freed from the need to reach a consensus and can therefore be frank. Another difference to the OECD is that the Staff Report is published unchanged by and independently of the member states. The EDRC – that is, the member states – publish an OECD Economic Survey. In contrast, in Article IV Consultations, the Public Information Notice and the Staff Report are published separately to allow for differences. Hence, the IMF is transparent in terms of its discussion and how views differ.⁶ An annual consultation cycle concludes with an IMF press conference reporting its results and announcing the publication of the relevant documents.

European Union I: Broad economic policy guidelines

The following two sections turn to multilateral surveillance in the EU. There are broad similarities in the way the EU strives for economic policy co-ordination to the OECD and the IMF despite differences in the institutional setting. Both the BEPG and the EES are treaty-based co-ordination procedures, while the OMC in other fields lacks such a legal underpinning and rests on intergovernmental agreement. Yet, even for the BEPG (Art. 98–100) and the EES (Art. 125–130), the Treaty only defines procedures, not specific contents. The EU does not have any policy-making competencies on its own but strives to co-ordinate national decisions. There is no genuine EU employment policy but only a 'strategy'. Moreover, member states cannot be sued for failing to implement the goals. This section assesses the BEPG; the next one examines the EES.

The BEPG have gained in importance since they were introduced with the Maastricht Treaty. Today, they are supposed to be at the heart of the

EU's economic policy co-ordination. The central role of the BEPG is to ensure a sound policy mix for the European economy as a whole through 'multilateral surveillance' (TEC, Art. 99/3) (cf. Hodson 2004). They deal not only with each member state's policies but also with their combined effect on inflation, growth, and unemployment. Accordingly, the BEPG contain a general as well as a country-specific part each year. They focus on macroeconomics, wage policy, public finances, labour, product and financial markets, entrepreneurship, etc. The main instrument employed is the issuing of recommendations. For the period from 2003 to 2005, there are twenty-eight general recommendations plus three to eleven specific ones for each country (Council of the European Union 2003). A ranking of the member states follows from the number and type of country-specific recommendations. Such a ranking can increase the public pressure on governments.

As with the Article IV Consultations and the EES, the BEPG follow a yearly cycle which in this case starts in January. In December 2002, the Council took the decision to 'streamline' economic policy co-ordination. Today, the BEPG and the EES have a unified schedule. To ensure more continuity of the policy goals, guidelines are issued every three years rather than annually. Yet, monitoring still takes place on an annual basis and the Commission updates its recommendations each year, too. The schedule for BEPG multilateral surveillance consists of two parts: a policy formulation and a policy implementation/evaluation phase (European Commission 2002b: 9). The first commences with the Spring Summit of the European Council, which defines general political guidelines for the EU on the basis of a Key Issues Paper from the acting Presidency. In April, the European Commission presents its draft for the BEPG, taking into account the European Council's conclusions. It entails both kinds of recommendations. As with the OECD and the IMF, the Secretariat has the task of producing a template for the subsequent discussion. While producing its draft, the Commission relies on bilateral contacts with national administrations to gather the required information. There are no missions as the exchange of data happens continuously.

Eventually, the Ecofin Council has to adopt the BEPG. However, this is normally a formal act involving no further discussion because the substantial work and policy discussions have already taken place in three committees preparing the Ecofin's work. These committees are the Economic Policy Committee (EPC), the Economic and Financial Committee (EFC) and the Ecofin Alternates. Each committee discusses the Commission's draft of the BEPG and amends it in due course. Since these are ordered hierarchically, the failure to come to an agreement in one committee leads to a transfer to the next one. In rare cases even the Ecofin Council discusses contentious recommendations. In principle, qualified majority decisions are possible in order to overcome deadlock but in reality members seek consensus. Most of the time, however, the committees are the primary location for multilateral discussions and peer pressure, even though these are less formalized than in the OECD's EDRC. In practice, each member state mainly considers those recommendations that relate to it directly. National representatives try to correct mistakes and water down criticisms. The process of

revising the BEPG – which mainly means redrafting country recommendations – resembles the OECD’s redrafting of an Economic Survey subsequent to the EDRC meeting. Most discussions take place between the member country concerned and the Commission but all others monitor and, if need be, amend the changes introduced. In controversial cases, there is an open discussion, but ultimately – also in line with the OECD – a consensus has to be reached. The procedure allows for adjustments but limits their magnitude as Table 1 demonstrates. For the 2003–2005 BEPG, there were even fewer changes.

Besides a fair degree of malleability in the recommendations, Table 1 indicates that governments react differently to them. While Germany tries to fend off many of the recommendations, Greece seems to embrace them. The one recommendation that was changed in the Greek case was actually aggravated rather than watered down. Soft law allows for varied government responses. They can endorse European goals or neglect them.⁷

After prior discussions in the committees, the Council accepts the BEPG, forwarding a report to the European Council which then concludes its work on the BEPG. In June, the Council formally adopts them. This is when the policy formulation phase ends.

Subsequently, during the second half of the year, the implementation and evaluation begins. Governments are supposed to take the BEPG into account in national policy-making. Specifically, they are urged to take the recommendations seriously. Yet, as with all soft co-ordination processes, no transfer of

Table 1 BEPG country recommendations 2002

<i>Country</i>	<i>No. of recommendations</i>	<i>Total no. of modified recommendations</i>	<i>No. of substantially altered recommendations</i>
Belgium	10	6	4
Denmark	6	1	1
Germany	12	8	6
Greece	13	3	1
Spain	12	4	3
France	10	4	4
Ireland	8	1	1
Italy	11	5	3
Luxembourg	5	0	0
The Netherlands	6	1	1
Austria	8	4	4
Portugal	11	4	3
Finland	8	1	0
Sweden	6	1	1
UK	6	2	1
Total	132	45 (34%)	33 (26%)

Source: European Commission (2002a).

sovereignty exists. All action has to be taken at the national level; the European level only monitors and comments on what happens. This task falls on the European Commission which has to keep member states' policies under firm surveillance.

Accordingly, the Commission presents the 'implementation package' in January – ending the yearly cycle. It consists of an implementation report of the BEPG, a progress report on the common market strategy, and a report on the functioning of the Community product and capital markets. Surveillance of economic policy through the BEPG thus differs from both the OECD and the IMF in that it monitors more closely whether and how states follow the recommendations given. In the other organizations this follow-up is less consistent. Therefore, there is a stronger basis on which to criticize governments for not sticking to their own commitments. At the same time, the BEPG are not as stringently targeted at peer pressure as OECD surveillance is.

European Union II: The European employment strategy

As mentioned in the introduction, the EES was the first instance of the OMC – although this name did not exist at the time. However, of the four cases of multilateral surveillance compared in this paper, it was the last to be conceived. The EES was created in 1997 with the inclusion of the Employment Title in the Amsterdam Treaty. Article 128 specifies that the Council each year draws up Employment Guidelines. National governments have to draw up National Action Plans (NAPs) which Commission and Council then evaluate. If deemed necessary, the Council can issue recommendations with qualified majority. Later in 1997, the Council agreed on the first set of Guidelines at a special 'employment summit' in Luxembourg.

Hence, the EES is also a process of reciprocal monitoring of national policies. It is probably the most elaborate version of multilateral surveillance because it specifies detailed goals, engages member states in writing reports, entails recommendations, and makes use of indicators to review implementation. It has passed through five full cycles before being transformed from an annual to a triennial cycle in 2003. Additionally, it was synchronized with the BEPG schedule to harmonize both procedures. As it is too early to assess how this change influences the process, the focus here is on the annual cycle.

In line with the other processes, the international organization's secretariat initiates a cycle. In September, the European Commission presents a draft for the Joint Employment Report (JEP), which discusses the general employment outlook for the Union and the member states. Usually, it contains two to six recommendations for each country. These recommendations are based on an evaluation of the NAPs and the actual policies pursued. They can lead to a ranking of member states and therefore are used for 'naming and shaming'. When the recommendations were first introduced, member states feared negative consequences domestically. However, as Meyer (2003) shows, recommendations receive hardly any attention in national newspapers and the general public has presumably never even heard of the EES.

The Commission's draft of the JEP has to be accepted by the Council. In line with the BEPG, various committees discuss it first. The most important one is the Employment Committee (EmCo). Yet the EPC also comments as the Employment Strategy has to be consistent with the BEPG. Both committees have to accede to the JEP before the Council can approve it in the autumn. The European Council considers the economic situation in the Union as a whole and will adopt conclusions thereon (TEC, 128/1). The policy formulation phase ends in January when the Council agrees upon a new set of Employment Guidelines as well as the recommendations.

Over the next few months, member states have to transform the objectives defined by the guidelines into a NAP. Ideally, writing the NAP is a concerted effort that brings together various actors (e.g. from different ministries and the social partners) to strategically set out goals for employment policy. However, empirical studies cast doubts on how embedded this exercise is in national policy-making (cf. Büchs and Friedrich 2005). In May, each country sends its NAP to the Commission, which analyses them and incorporates its evaluation into the drafting of the JEP.

EmCo discusses these documents in June. Members assess each other's NAP in a peer review called the Cambridge Process. Biagi (1998: 29) describes this peer review as very similar to the EDRC procedure: there is a cross-examination, whereby each country examines and is examined by its peers. On this occasion, multilateral surveillance proper takes place, although less than an hour is spent on each NAP (Trubek and Mosher 2003: 48). In addition to this multilateral exchange, there are bilateral ones, with the Commission and the member states concentrating on sections relating to individual countries in the draft JEP. Similar to the OECD's second mission, their purpose is to make sure that all data are correct and updated. The Commission then produces a final draft of the JEP before it is handed over to the committees in September when the cycle is completed.

Whereas EU states have dynamically developed the EES into elaborate soft co-ordination with many specific goals and more than a hundred indicators measuring progress, multilateral discussion is not as strong as in the OECD. However, discussion in the committees and even in the Council is more steady and frequent than in the OECD.

4. A MODEL OF MULTILATERAL SURVEILLANCE

Multilateral surveillance rests on peer review, i.e. on the mutual monitoring and evaluation of national policies by other governments. It is targeted at bringing states to behave in accordance with a code of conduct or specific goals, at developing common standards and at acquiring best practices through international comparison. Precisely because there are no sanctions, this mode of governance builds on a co-operative effort to criticize existing policies and generate new ones. In the absence of other means of leverage, any impact on national governments has to result from the (mild) pressure of having to justify one's

action in the light of a common evaluation of the compliance of this action with joint goals (cf. Nottage 2002: 4). This was already noted by an early study on the OECD:

The significant result of having the members compare, analyze, and discuss their policies is a better understanding of each other's problems and a growing recognition of the interdependence of national policies. This is a rather palpable process that nonetheless has recognizable effects. One effect, to use the analogy of a physical phenomenon, is a kind of 'osmosis' – a diffusion of ideas, a better understanding of one country's policies by responsible officials in other countries, and the anticipation of more sympathetic response by others to these policies (and vice versa). This calls for the periodic personal contacts that also engender mutual appreciation and trust. Participants in OECD meetings agree that this intangible element has given them much better insight and influenced their thinking materially.

(Aubrey 1967: 144)

The possible effectiveness of multilateral surveillance depends on establishing peer pressure and persuading reluctant actors. Based on the preceding sections, we can identify six elements that define this mode of policy-making, distinguishing it from the Community Method (cf. Figure 1). They apply to all four surveillance procedures described above.

Whenever these characteristics are present, we can speak of soft co-ordination through multilateral surveillance.⁸ Of course, each procedure differs in its emphasis on particular elements, and those described above also differ in their application. However, these are variations in style, not in kind.

What are these differences? Multilateral surveillance in the EU defines common goals more precisely. Rather than just relying on a general code of conduct, the EU makes use of concise guidelines. It also monitors their implication more stringently. The EU processes aim at continuously advancing clearer goals and more systematic monitoring devices (e.g. through indicators or best practices).

Both the IMF and the OECD are less specific in defining goals and consequently monitoring is less detailed. This is especially true of the Article IV Consultations, which, however, supersede the other procedures in terms of transparency since even the staff report itself is published. Emphasis is thus put on public pressure rather than peer pressure, while the Executive Board's discussions are quite detached from national policy-making. In terms of peer discussion, the IMF Consultations clearly fall short of the other procedures.

In general, the OECD procedure most resembles the OMC. One major difference is, of course, that for the latter governments have to draw up NAPs, which are supposed to increase their commitment. Discussions in the EDRC are, however, more consistently geared towards peer review and peer pressure as they rely on an elaborate process of cross-examination. The downside of this procedure is that the discussion of any particular country is only sporadically intense, namely every twelve to eighteen months when a review or

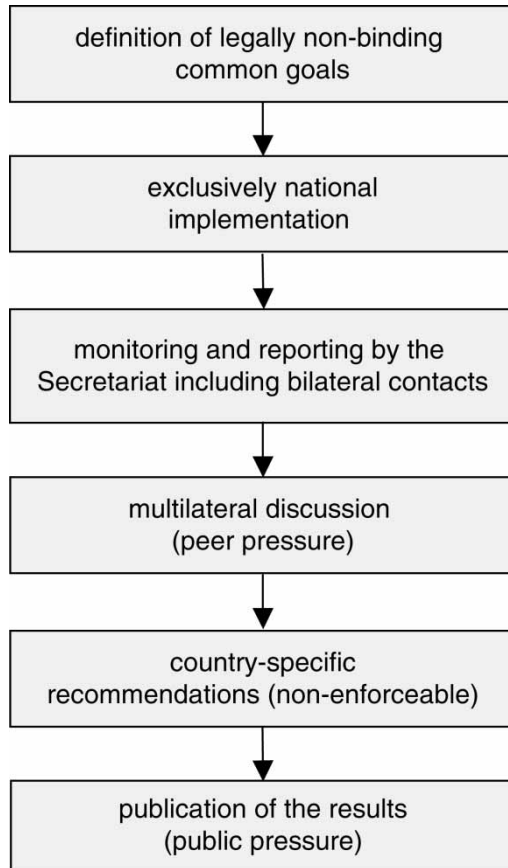


Figure 1 Six elements of multilateral surveillance

missions are due. Both the EES and the BEPG are more accustomed to continuous debates. Economic Surveys receive a relative degree of attention in the national media and can at times increase public pressure.

Additionally, OECD Economic Surveys are by far the most comprehensive and detailed accounts of national economies, followed by the IMF Staff Report. An OECD Economic Survey offers a comprehensive review of economic trends, recent policies, and current reform agendas. They are good guides to a country's political and economic outlook. In contrast, both the JEP and the BEPG only have relatively short sections on each member state, although both reports put considerable emphasis on issuing recommendations.

In sum, I would argue that with the EES and the BEPG multilateral surveillance is applied more stringently than with either the Article IV Consultations or the Economic Surveys. While EU member states do rely on instruments employed by international organizations, they have been more willing to

reinforce them through clearly defined, testable guidelines. The difference remains a gradual rather than a categorical one, however.

5. WHY SOFT LAW?

The empirical account of the previous sections leads to the conclusion that the OMC is but a special form of multilateral surveillance. It does not differ in kind from the instruments deployed by international organizations. As such, it can be described as intergovernmental and voluntaristic (cf. Streeck 1995): governments can choose whether and to what degree they take European guidelines into account. The goals agreed to at the European level are not binding, and there are no sanctions other than naming and shaming if a national government decides not to act on them.

The OMC is a new form of governance only in the context of the EU: a less supranational, less integrationist one than the Community Method. At the same time, OMC-type soft policy co-ordination has been well established in the OECD and the IMF for decades. This raises the question of why by the 1990s the EU had become more willing to rely on the same instruments as other international organizations.

Multilateral surveillance was introduced to the OECD and the IMF at times when there was little agreement in substance. Similarly, as Rodrigues (2001: 4) stresses, the EES was tailored to overcome differing views on how (if at all) to fight unemployment at the European level during the 1997 special summit in Luxembourg. Relying on soft law facilitated coming to an agreement. Rather than search for a compromise on substantive issues, governments opted for a procedural solution. They initiated a process of mutually monitoring their otherwise discrete decisions. Hence, a reason for the choice of soft law is that it seems particularly suited to overcoming disagreements.

Moreover, soft law is attractive for national governments as it limits sovereignty losses. States rely on multilateral surveillance to co-ordinate their policies in the absence of enforceable, binding rules. In contrast, '[t]he term hard law . . . refers to legally binding obligations that are precise (or can be made precise through adjudication or the issuance of detailed regulations) and that delegate authority for interpreting and implementing the law' (Abbott and Snidal 2000: 421–2).

In reducing the degree to which rules are binding, their precision as well as delegation, soft law offers a number of advantages to governments which avoid the costs of hard law. In particular, the OMC:

- allows for flexibility (policy initiatives can be adapted to the diverse institutional arrangements, legal regimes and national circumstances in the member states);
- minimizes sovereignty losses (member state compliance remains essentially voluntary. Compliance is not enforceable);
- helps to overcome political resistance (flexible agreements may surmount member states' opposition to EU mandates considered too disruptive of, or too alien to, national arrangements);

- permits the shifting of blame (it enables domestic actors to blame the EU for unpopular decisions);
- offers symbolic politics (new initiatives foster the impression of determination. European governments jointly take action against unemployment, social exclusion, and sluggish growth);
- avoids a loss of control (member states stay firmly in control of policies. Rather than enabling supranational organizations to follow their own agenda, member states use the OMC to shield them from outside interference – unless this interference turns out to be domestically useful).

In sum, soft law increases governments' strategic room for manoeuvre in two-level games. Governments can effectively use their privileged position as agents of their national constituencies and principals to supranational actors. However, this does not mean that voluntarist procedures are in all cases ineffective. Sometimes multilateral surveillance might be effective because governments support the goals or encounter little domestic opposition.

While soft law has in due course turned out to be attractive for governments, we cannot conclude that this was the only reason why governments opted for the OMC. First, it was not clear how multilateral surveillance would evolve. Second, governments could not easily foresee the behaviour of the Commission which has continually tried to harden the procedures through monitoring, quantitative indicators, and naming and shaming. Third, given national diversity, governments might have genuinely thought that learning was the best the EU could do in employment policy. Yet, whatever additional motives they had, governments were adamant in their opposition to hard law. This article does not discharge positive justifications for choosing the OMC but cautions against undue optimism about its impact since the effect of soft law depends on the will of governments.

6. CONCLUSION: EFFECTIVE GOVERNANCE?

This paper has compared the OMC to other procedures of policy co-ordination both within the EU and in other international organizations. In contrast to the prevailing literature, it has argued that the OMC is but a subtype of multilateral surveillance. While this form of policy-making was not introduced to the EU until the 1990s, it has long been used in the OECD and the IMF. Hence, studies that exclusively focus on the EU have not only overstated the novelty of the OMC but also misread its potential consequences. Since the OMC resembles OECD and IMF procedures, it might not initiate further integration but instead signals weariness of the Community Method. Such an outcome does not seem unlikely if we consider the EU's growing membership after enlargement. More diversity might block hard law in the future and leave soft law procedures as a feasible alternative. Multilateral surveillance is not primarily chosen for its effectiveness but for its capacity to facilitate compromises, substituting substantial agreements for procedural ones.

In comparison to IMF and OECD multilateral surveillance, the OMC's major innovation is the introduction of NAPs. They assign a more active role to national governments than the Economic Surveys, the Article IV Consultations or the BEPG. However, the prime shortcoming is a lack of public awareness. As section 4 has argued, multilateral surveillance always builds on peer pressure as well as public pressure. Yet the second seems to be almost entirely absent from the EES and the BEPG. Instead, the message these processes convey is diverted: the recommendations are too numerous and too diverse. Despite claims to its openness, the OMC is a process only known to experts.

In line with this assessment, the Kok Report (High Level Group 2004: 43) recommends that the Commission should deliver each year a league table of member state progress towards the Lisbon goals to increase public pressure. However, in addition to already more than ten OMC processes, there is multilateral surveillance of the IMF and the OECD. All these processes comprise recommendations. Their sheer number is bound to limit the impact of and public attention for each single one. What is more, governments have to partake in all these procedures and provide information. Hence, they establish a division of labour. Different ministries or departments within ministries deal with different processes. This means that the quantity of surveillance procedures causes compartmentalization and thus runs counter to one of the core ideas of the OMC, that is, that governments adopt a coherent, overall strategy to policy reform. In reality, multilateral surveillance can be quite detached from national policy-making.

In terms of effectiveness a comparative account of soft co-ordination leads to a less sanguine interpretation than the one suggested by the current literature. A recent book, *The OECD and European Welfare States* (Armingeon and Beyeler 2004), reveals the extremely modest influence of the OECD Economic Surveys on national policies. This finding also casts doubt as to the potential of the EU's procedures of multilateral surveillance to induce change. Their capacity to do so seems severely limited by the inherent voluntarism of soft law, which is unable to oblige reluctant governments to change their policies. Further research will have to answer the question of whether the differences of the procedures outlined in section 3 suggest a greater impact on the part of the OMC.

Address for correspondence: Armin Schäfer, Max Planck Institute for the Study of Societies, Paulstrasse 3, 50676 Köln, Germany. Tel. +49 (0)221 2767164. email: as@mpifg.de

NOTES

- 1 I am grateful to Burkhard Eberlein, Susanne Schmidt, Cornelia Woll, and three anonymous reviewers for their helpful comments.
- 2 In a more critical vein Trubek and Mosher (2003: 47–8) stress that the OMC bears a potential for policy learning which as yet has not been realized.
- 3 A brief comparison of the EES and the OECD Jobs Strategy can be found in Noaksson and Jacobsson (2003). See also recently Dostal (2004).

- 4 The adjective 'multilateral' can refer either to the object or the subject of surveillance. I take it to mean the former as these processes are geared towards multilateral discussion of national policies. The latter would in contrast mean the discussion of several states' policies and their interdependencies. Of course, all three organizations conduct both kinds of surveillance.
- 5 Notions like 'most', 'many', 'some' or 'a few directors' indicate how great a disagreement exists.
- 6 This is, however, a recent development and results from a conscious effort to increase transparency. Cf. IMF (2002, 2003).
- 7 Ferrera and Sacchi (2004) find that the EES had an impact on Italian policies as it was in line with the government's approach. However, the 'Social Inclusion' OMC was totally muted by national politics.
- 8 For example, they also apply to the World Trade Organization's Trade Policy Review Mechanism. See Laird (1999).

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