



# Constructed peer groups and path dependence in international organizations: The case of the international climate change negotiations



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## ABSTRACT

International organizations sometimes institutionalize country groupings by specifying differentiated commitments that may, in turn, affect negotiation dynamics. Drawing on incentive-based and socialization arguments, we develop a “constructed peer group” hypothesis suggesting that by creating these groups those organizations may actually construct new lines of confrontation over and above the substance-based disagreements existing between countries. This generates a particular type of path dependence, rendering broad-based international agreements more difficult in the future.

We analyze this question at the example of the United Nations Framework Convention on Climate Change's increasingly politicized split between Annex I and non-Annex I countries. Using a self-coded dataset of country oral statements during the negotiations between December 2007 and December 2009 we assess whether Annex I membership influences a country's stance toward other countries' arguments, while controlling for country characteristics that may drive their preferences and the affiliation to Annex I. We find that the split between Annex I and non-Annex I has indeed influenced negotiation behavior and amplified the divide between developing and industrialized countries in the climate negotiations.

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## 1. Introduction

A large body of research tries to answer why some intergovernmental organizations are effective in terms of achieving their stated goals while others are not (Breitmeier et al., 2011; Levy, 1996; Miles, 2002; Mitchell, 2002, 2006; Underdal and Young, 2004; Vollenweider, 2012; Weiss and Jacobson, 1998; Wettstad, 1997; Young, 1992, 1999a). Several studies also examine the role of intergovernmental organizations in their member states' socialization with particular norms and roles. A Special Issue in International Organization, for example, analyses how the European institutions affect member states' interests and behavior (Checkel, 2005a). Pevehouse (2002) assesses effects of membership

to intergovernmental organizations on democracy levels of members. Bearce and Bondanella (2007) investigate whether common membership to intergovernmental organizations leads to interest convergence between members. Greenhill (2010) looks at the effect of membership on human rights practices of states.

When it comes to the assessment of more specific institutional features of the individual intergovernmental organizations, and their effect on bargaining and cooperation within them, the number of studies becomes more limited. Some studies examine the effect of specific voting rules or the role of the chair of a negotiation (Odell, 2005; Susskind, 1994; Tallberg, 2006). A few others have considered differentiated rules for different countries, an institutional clause frequently used especially in multilateral environmental agreements. These studies are most closely related to our study and will thus be discussed further below. Crucially, this research has so far relied mostly on single or few case studies to draw inferences, so that virtually no systematic empirical research has been done on how initial institutional provisions affect member states' future cooperation within multilateral agreements, and hence the dynamics of the multilateral negotiation process over time.

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This is quite surprising as the theoretical institutionalist literature has long argued that the design of intergovernmental organizations affects their ability to promote cooperation (Keohane et al., 1993; Peterson, 1997). There is a broader literature on the effect of treaty design on bilateral bargaining, cooperation and conflict over shared resources, for instance in the area of water-related agreements (e.g. Fischhendler, 2008a, 2008b; Tir and Stinnett, 2012). But again, this literature primarily focuses on questions of implementation and compliance rather than effects on the future dynamics of the negotiation process itself.

In this article, we consider the effect of particular features of institutional design on future bargaining behavior by member states within an intergovernmental organization, and thereby, on the organization's future development. We consider that the way in which such an agreement is designed may affect state interests and behavior, even if this was not intended in the first place. In other words, we do not assess whether certain institutional features effectively serve the purpose they were designed for. Rather, we consider the structural side-effects of institutional design. This will be assessed at the example of the negotiations under the United Nations Convention of Climate Change (UNFCCC).

The choice of the Climate Change Convention is motivated by existing anecdotal evidences. The initial agreement led to the Convention's so-called 'Annex I' listing a number of OECD and transition countries as a means of differentiating them from 'non-Annex I' countries with respect to their greenhouse gas reduction and reporting commitments. Reportedly, this distinction has become more and more politicized and rigid over time and created an unintended and unnecessarily deep divide between the two groups of countries (Baumert et al., 1999, 2002; Gupta, 2010; Höhne, 2005, p. 37). Analysts of the Convention process have indeed described the creation of the Annex I/non-Annex I division of the world as "amateurish" (Gupta, 2010, p. 641), and the related North–South dynamics as "dysfunctional" and "the regime's greatest weakness" (Depledge and Yamin, 2009, p. 443).

Legal scholars have examined such country differentiation in intergovernmental organizations from a normative perspective (for example Rajamani, 2000, 2006). Political scientists have discussed the relevance of such – or similar – flexibility provisions for regime effectiveness (Andresen and Wettestad, 1992; Fischhendler, 2008a, 2008b; Koremenos et al., 2001; Kucik and Reinhardt, 2008). However, the analysis of the effects of such differentiation on the future negotiation process is at least equally relevant. As noted by John Odell in a recent review of the negotiations literature, there is a general lack of research combining the insights of macro conditions and micro processes of negotiation. He thus explicitly calls for the introduction of "hypotheses about how international institutional differences (as conceived by either rationalists or constructivists) affect individual negotiator behavior" (Odell, 2013, p. 40).

We respond to this call by drawing from both, institutionalism and negotiation research, and propose a "constructed peer group" hypothesis, whereby the "constructed" peer group is itself an institution created within an intergovernmental organization. Our hypothesis suggests that once these groups are constructed and institutionalized, negotiation behavior of countries that are party to the agreement may follow the delimiting lines between these groups. We expect that the group building process itself alters the countries' incentives, and, as a consequence, their negotiation behavior. For instance, countries in groupings initially granted certain exemptions from economic or environmental obligations will have an incentive to lobby for the continuation of this preferential treatment in subsequent negotiation rounds. In addition, creating such country groupings may imply increased discussions within these groups and thereby enhance mutual understanding and support, leading to socialization effects.

Eventually, the decision to form specific country groups may drive the discussions in a different direction than they would have taken otherwise and render future broad-based international agreements even more difficult. If this is the case, then more attention needs to be paid to these aspects of regime design right from the beginning.

Empirically, we assess to what extent the ex-ante categorization of member countries to the Climate Change Convention may indeed have amplified the divide between them. The empirical challenge is to differentiate between the effect of institutionalized groupings and the impact of policy preferences that can be explained by different country characteristics. To do so, we examine the factors leading countries to openly express support for other countries' positions during the multilateral climate negotiations from December 2007 to December 2009. Based on summaries of the negotiations published in the Earth Negotiations Bulletin (ENB), we code all statements by countries declaring support for other countries' previous interventions. We then assess the impact of Annex I membership and various country characteristics on this variable in a multivariate censored regression framework. We complement this analysis with propensity score matching, which allows us to relax the functional form assumptions and to limit our comparison to actually comparable countries – thereby eliminating a potentially important source of bias.

In the following, we first describe how differential treatment has been implemented in other intergovernmental organizations, and propose a theoretical framework describing our "constructed peer group" hypothesis linking it to existing incentive-based and sociological arguments from the literature. Then we describe how this discussion applies to the particular case of the Climate Change Convention. After explaining the data and our empirical estimation approach, we present the results, conclusions, potential policy implications, and ways forward in research.

## 2. Theory and literature

### 2.1. Differential treatment of parties to multilateral environmental agreements

The Climate Change Convention is not the only intergovernmental organization that has adopted differentiated rules for groups of countries. In fact, several other multilateral environmental agreements, including the 1982 United Nations Convention on the Law of the Sea, the 1983 International Undertaking on Plant Genetic Resources, the 1987 Montreal Protocol on Substances that Deplete the Ozone Layer, the 1992 Convention on Biological Diversity and the 1994 United Nations Convention to Combat Desertification, have incorporated the notion of differentiated responsibility of states with respect to the protection of the environment, based on the recognition already in Principles 6 and 7 of the Rio Declaration (UN, 1992), of the future development needs of poor countries, of other special needs and circumstances of countries, and of the different contribution of countries to the specific environmental problem at hand. The resulting differential treatment usually consists of less stringent obligations, different timing of the application of provisions, and international assistance in terms of financing, capacity building or technology transfer (Hepburn and Ahmad, 2005; Matsui, 2002).

Beyond the environmental domain, the World Trade Organization also has "Special and Differential Treatment" provisions, which are based on the notion that countries at different levels of development have different trade policy needs (Page and Kleen, 2005). The 1979 Enabling Clause formally established differential treatment for developing countries and, among them, for Least Developed Countries. In recent negotiation rounds on specific

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