

The Hanseatic League as an early example of cross-border governance?

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The conception of legitimate forms of governance across borders is a central concern of scholarly debate in International Relations (IR) since the mid-1990s. In particular, the question of how to overcome the democratic deficits of cross-border forms of governance has led to a lively academic debate, one which has successfully borrowed from related disciplines. One of these disciplines that promise fruitful insight is historical studies. History is crucial to understanding contemporary events.¹ As Charles Tilly has noted:

“Every significant political phenomenon lives in history and requires historically grounded analyses for its explanation. Political scientists ignore historical context at their peril”.²

To study historical forms of cross-border governance, how they generated legitimacy and on what basis these arrangements succeeded in developing their own principles of good governance, could lead to further insights into the nature of contemporary cross-border governance.³ One prominent historic example is the Hanseatic League, a cross-border governance arrangement that managed to exist for almost 500 years (roughly from 1160 to 1660). Like modern forms of global governance, the Hanseatic League served as an order establishing structures of control but possessed neither formal authority nor central enforcement power.⁴ It also differs from territorially organized forms of governance by its composition of actors, its organizational structure as well as its modes of political steering. Governance arrangements of this kind depend on the voluntary cooperation of rule-addressees and must generate legitimacy from within in order to enforce their rules. Understanding how and by which principles and modes of legitimacy the Hanseatic League managed this over the centuries could provide indications of how forms and mechanisms of legitimate cross-border governance have to be arranged in order to generate acceptance in the long run.

In order to do this in an adequate way, we have to reflect critically our own concepts and terms, keeping in mind the historical conditionality of systems of rules

1. T.J. MCDONALD, *The Historic Turn in the Human Sciences*, University of Michigan Press, Ann Arbor, 1996.
2. C. TILLY, *Why and how history matters*, in: R.E. GORDON, C. TILLY (eds), *The Oxford Handbook of Contextual Political Analysis*, Oxford University Press, Oxford, 2006, pp.417–37, here p.433.
3. I. CLARK, *Legitimacy in a global order*, in: *Review of International Studies*, 1(2003), p.75.
4. The Hanseatic League indeed retained a certain unity from the 12th to the 17th century but went through extensive structural changes and thereby remained a relatively loosely connected institution. See P. DOLLINGER, *Die Hanse*, Alfred Kröner Verlag, Stuttgart, 1998, p.479 as well as the document on the judicial status of the Hanseatic League in the Appendix, pp.548 sqq.

and laws when formulating hypotheses and statements.⁵ Hence, it is important to clarify, that “governance” is used here as an analytical concept, not a normative one. As an analytical concept, it is applicable to different times and spaces. In this regard, an adequate definition is that governance is the totality of all coexisting forms of collective rule over a society.⁶ As such, the concept is open to identify and analyse special structural forms and modes of governance to investigate their role in generating legitimacy.

Alongside governance, “authority” is an important term in the debate on cross-border governance. Authority in the Middle Ages was conceptualized as a complex network of interpersonal bonds often without a clearly defined hierarchy or established institutional structures. People acted not as individuals but as members of networks, composed of relatives, friends and comrades.⁷ In addition, political authority was fragmented (between kingdoms, nobility, the church and cities) with different systems of rule coexisting and overlapping. In such a political landscape, individuals were often subject to multiple authorities because government was not defined by mutually exclusive criteria. Therefore, territoriality was not a determinant of identity and loyalty.⁸ In such a system of multiple authorities, each governance arrangement had to generate its own acceptance by its rule-addressees.

The polycentric structure of today’s world order consisting of a variety of agencies and multiple sites of governance bears some resemblance to political structures during the Middle Ages, thus justifying an exploratory comparative analysis. The recent rise of multiple, overlapping governance arrangements in non-hierarchic, network-like structures, particularly regarding trade policy, suggests that exploring the structures which characterized governance in the Middle Ages in general and the Hanseatic League in particular offers considerable promise as a scholarly enterprise. Therefore, “questioning to what extent the history of the League might provide indicators of value in determining the possibility of sustained interregional cooperation and governance in the present context” is justified.⁹ By pointing to such parallels this paper aims to provide a better understanding of historic and current forms of cross-border governance.

A third concept that I use for this analysis is “legitimacy”. Although legitimacy depends on the historically contingent values, goals and practices of the relevant rule-

5. At the same time, “the Hanse cannot be defined by any modern legal or economic organizational type”, H. BRAND, *The German Hanse in Past and Present Europe*, Hanse Passage/Castel International Publishers, Groningen, 2007, p.22. Therefore, any form of equation with the European Union is inadequate.
6. R. MAYNTZ, *Governance Theory als fortentwickelte Steuerungstheorie?*, in: G.F. SCHUPPERT (ed.), *Governance-Forschung*, Nomos Verlagsgesellschaft, Baden-Baden, 2006, p.12.
7. O. AUGÉ, *Hansegeschichte als Regionalgeschichte?*, in: M. HUNDT, J. LOKERS (eds), *Hanse und Stadt. Akteure, Strukturen und Entwicklungen im regionalen und europäischen Raum Schmidt-Römhild*, Verlagsgruppe Beleke, Lübeck, 2014, pp. 3-14.
8. G.F. SCHUPPERT, *Herrschaft im Mittelalter*, in: S. ESDERS, G.F. SCHUPPERT (eds), *Mittelalterliches Regieren in der Moderne oder modernes Regieren im Mittelalter?*, Nomos, Baden-Baden, 2013, pp.33-34.
9. H. BRAND, *op.cit.*, p.11.

addressees, there are reasons to believe that most of them play a more or less important role at different times and in diverse functional contexts.¹⁰ This is not to say that certain values or practices have an eternal persuasive force. Nevertheless, I suggest here that some of them that played a role in the European Middle Ages can have a meaning in today's world too. One reason is that the Hanseatic League – similar to today's forms of cross-border governance – existed in a context of different and overlapping institutions. Therefore, we will probably find sets of indicators of legitimacy that bear a meaning in the search for legitimacy throughout history. If we look at the frequently applied indicators of legitimacy regarding cross-border governance, we see that some of them already had an effect in the Middle Ages whereas others were clearly of no relevance and some principles from the Middle Ages have faded in importance. In terms of the latter development, I suggest that this is perhaps unfortunate. As the case of the Hanseatic League shows, an open and flexible institutional design ("legitimacy of order"),¹¹ informal procedures and the existence of a powerful actor with the willingness to lead ("legitimacy of authority") might be indicators of legitimacy that are relevant even in the contemporary period.

As implied above, this is why understanding how the Hanseatic League managed to generate legitimacy over the centuries could provide indications of how current forms and mechanisms of legitimate cross-border governance have to be arranged in order to be successful in the long run. Therefore, in this article, I pursue the question how the Hanseatic League over the centuries succeeded in generating binding power upon its members and performed steering services without possessing the corresponding formal authority. By answering this question, it should be possible to garner useful hints for the design of contemporary forms of transboundary governance. After some preliminary remarks on governance across-borders, I will introduce the Hanseatic League as a cross-border governance arrangement. Subsequently, its normative and empirical legitimacy is evaluated by a coherent assessment framework. The article concludes with some thoughts on the lessons learned from this analysis and to which extent they are transferable to today's forms of cross-border governance.

Governance across borders

To answer the question of how the Hanseatic League was able to generate and retain acceptance over five centuries, we must identify suitable indicators to measure and assess the legitimacy of different forms of governance. The operationalisation of such indicators depends on the conception of legitimacy guiding the research; the manner in which the international environment (in which the actors are operating) is conceptualized; and the extent to which certain standards of legitimacy are seen as ap-

10. S. BERNSTEIN, *Legitimacy in global environmental governance*, in: *Journal of International Law & and International Relations*, 1-2(2005), p.157.

11. This differentiation is sketched in I. Clark, op.cit., p.89.

propriate to this environment.¹² Because of the varying contexts, transboundary governance cannot refer to forms of decision making and mechanisms of enforcement established at the state level.¹³ A suitable alternative concentrates on functional and sectoral forms of representation of organized interest groups (in the case of the Hanseatic League these are the mercantile communities and the cities).¹⁴ Furthermore, the reliance of cross-border governance on horizontal forms of steering must be considered. In other words, primarily consensus-oriented negotiation-processes instead of hierarchical subordination serve as mechanisms for the generation of compliance (the Hanseatic Diets serve as examples). In addition, procedural mechanisms serving to hold the rule-setters accountable and securing that the rule-addressees adhere to the rules must be established to ensure legitimacy (e.g. the exclusion of merchants or cities from the privileges of the Hanseatic League). Finally, “political choices are legitimate if and because they effectively promote the common welfare of the constituency in question” (e.g. by securing the privileges of the Hanseatic merchants abroad).¹⁵ Moreover, focusing on legitimacy is justified through its recognition as “one of the key factors determining the stability of a system at a given time”.¹⁶ In the following, a checklist of indicators shall be applied that does not assume any a priori bases of legitimacy (because legitimacy is an essentially contested concept) but draws on the relevant literature on the Hanseatic League. These indicators are then systematically combined according to the distinction between input-, throughput- and output-legitimacy, without claiming that the chosen indicators are the only necessary and sufficient conditions for legitimacy.

The input-dimension addresses the question of who is entitled to make decisions and who is to be represented in the decision-making process.¹⁷ Here, the equal and active participation in the processes of decision-making by all rule-addressees (in this case, first the merchants active in the trade between the Baltic Sea and the North Sea, later the member-cities of the Hanseatic League) must be assured in order to derive a direct mechanism that effectively imparts their concerns and preferences.¹⁸ The throughput-dimension addresses the procedural level focusing on how decisions are made and to what extent decision-makers will be held accountable for their actions (in the case of the Hanseatic League this refers to the decisions made by the Hanseatic

12. K.D. WOLF, *Private Actors and the Legitimacy of Governance Beyond the State. Conceptual Outlines and Empirical Explorations*, in: A. Benz, I. PAPADOPOULOS (eds), *Governance and Democracy*, Routledge, London, 2006, pp.200-227.
13. A. BUCHANAN, R.O. KEOHANE, *The Legitimacy of Global Institutions*, in: *Ethics & International Affairs*, 4(2006), pp.405-437.
14. From the middle of the 13th century to the middle of the 14th century the Hanseatic League developed from an association of merchants into an association of cities. Their ties were based on functional rationale rather than on political or territorial ones, see C. JAHNKE, *Die Hanse am Beginn des 15. Jahrhunderts*, in: M. HUNDT, J. LOKERS (eds), op.cit., pp.15-27.
15. F.W. SCHARPF, *Regieren in Europa. Effektiv und demokratisch?*, Campus, Frankfurt am Main, 1999, p.6.
16. I. CLARC, op.cit., p.82.
17. F.W. SCHARPF, op.cit.
18. A. BENZ, I. PAPADOPOULOS (eds), op.cit., p.275.

Diets that consisted of the ambassadors of the participating cities).¹⁹ The catalogue of input- and throughput-indicators measuring the normative legitimacy of governance arrangements is supplemented by information on the performance and on stakeholders' acceptance of the Hanseatic League as an indicator for output-legitimacy.²⁰ Here, it is assumed that the three dimensions complement one another. Accordingly, I expect that the more indicators the Hanseatic League satisfies, and the higher the degree to which it satisfies them, the more legitimate the organization. The chosen indicators will not only show how the Hanseatic League obtained legitimacy, but that we can also derive some clues for the design of contemporary forms of cross-border governance from it. In this way, this study can make a contribution to provide insights regarding the conditions, prospects and limits of legitimate governance across borders.

Three dimensions of governance beyond the nation state

<i>Normative Legitimacy</i>		<i>Empirical Legitimacy</i>
Input-Dimension	Throughput-Dimension	Output-Dimension
<ul style="list-style-type: none"> – Representativeness (matching principle) – Degree of political equality – Consensus-orientation of the negotiation processes 	<ul style="list-style-type: none"> – Transparency – Monitoring procedures – Sanctioning mechanisms 	<ul style="list-style-type: none"> – Effective promotion of the common welfare – Acceptance

Before the selected indicators of legitimate governance are presented using the example of the Hanseatic League, I will give some general information about this early form of cross-border governance.

The Hanseatic League

The Hanseatic League in its heyday comprised nearly 200 cities in an area ranging from the Suyder Sea in the Netherlands to the Gulf of Finland and Dorpat in the Northeast as well as Cracow in the Southeast.²¹ Its long existence not only indicates a certain degree of effectiveness but also a considerable degree of legitimacy that

19. M. ZÜRN, *Democratic Governance Beyond the Nation-State: The EU and Other International Institutions*, in: *European Journal of International Relations*, 2(2000), pp.183-221.

20. "Legitimacy [...] lies as much in the values, interests, expectations, and cognitive frames of those who are perceiving or accepting the regime as they do in the regime itself". See J. BLACK, *Constructing and Contesting Legitimacy and Accountability in Polycentric Regulatory Regimes*, in: *Regulation & Governance*, 2(2008), pp.137-164, here p.145.

21. For a list of the 200 cities see P. DOLLINGER, op.cit., pp.586-587. Since the mid 13th century, the Hanseatic League almost held a trade monopoly in the North Sea and the Baltic Sea and its trade circuit followed the line of Novgorod-Reval-Lübeck-Hamburg-Bruges-London. In the 14th century, the League enlarged and intensified its land-based trade ties to Southern Germany and Italy and its sea-based trade along the Atlantic coasts of France, Spain and Portugal. See P. DOLLINGER, op.cit., p.11.

reaches into the present – evinced by the attempt of German cities to retrieve their former status as Hanse-cities (Greifswald, Stralsund, Rostock), as well as the reestablishment of a Hanseatic League in 1980 with 160 member-cities from 15 countries (<http://www.hanse.org/de/>).

The status of the Hanseatic League in the Middle Ages is all the more astonishing considering that, as part of the Holy Roman Empire, it lacked sovereignty and its members were more or less directly under the rule of different religious or secular sovereigns. Moreover, the Hanseatic League lacked its own funds, its own army, navy as well as an independent administration.²² Aside for the infrequent and incomplete assembly known as the Hanseatic Diet (*Hansetag*), the League had no institutions available to coordinate joint actions.

“In fact, the history of the League bristles with cases of cities pursuing policies contrary to the resolutions of the Hanseatic Diet. This was due to the fact, that Hanseatic policies were often subordinated to specific local interests”.²³

According to the so-called “*Einungsrecht*”, all acts of the councils were subordinated to the common good of their city, “meaning that Hanseatic policies which ran contrary to the town’s welfare were to be vetoed by the council”.²⁴ Therefore, the Hanseatic Diets strived for consensual decisions that respected the interests of all cities – at least those that were present. Cities that viewed their interests violated by a certain policy could give up their membership without losing the prospect of readmittance. Because no city council could be obliged to adopt a policy that ran against its own interest, the Hanseatic cities enjoyed a high degree of autonomy in relation to the organization as a whole. The Hanseatic League spoke of itself as being “nothing more than a firm confederation of cities with only one aim, to promote maritime and overland trade and protect the merchants from pirates and bandits”.²⁵ Against this background, the question begs to be asked, how did this loosely connected network of quasi-states, cities and private actors managed to exist and rule over such a long period? More specifically, how did the Hanseatic League transcend merely economic cooperation and effectively exercise power most obviously exemplified by waging several successful wars against neighbouring kingdoms?²⁶

22. Fink emphasizes the “polycentric structure” of the Hanseatic League: “In the absence of an overarching political authority, which could have enforced agreements made between member cities, the arrangements between the cities of the Hanseatic League had to be self-enforcing”, A. FINK, *The Hanseatic League and the Concept of Functional Overlapping Competing Jurisdictions*, in: *KYKLOS*, 2(2012), pp.194-217, here p.195.

23. H. BRAND, *The Weaknesses and Strengths of the Hanseatic League in a modern Perspective*, in: H. BRAND, op.cit., p.257.

24. Ibid.

25. *Hanseatisches Urkundenbuch*, Bd.IX, Duncker & Humblot, Leipzig, 1903, p.464.

26. The power of the Hanseatic League was based on basically four elements: the networks of the merchants, the branch offices with their privileges, the cities and – as a head – the Hanseatic Diet, see G. GRAICHEN, R. HAMMEL-KIESOW (eds), *Die Deutsche Hanse. Eine heimliche Supermacht*, Rowohlt, Reinbek, 2011, p.247.

To answer these questions, we must first look at the motives for cooperation. The aims of the Hanseatic League were first, to defend its trade privileges abroad; second, to solve conflicts between its members, solve organizational problems and secure the authority of the councils in the cities; and third, to protect its ambassadors and member cities from hostile attacks. To the same degree that the Hanseatic League succeeded in fulfilling these aims, it was accepted as a useful alliance by its members. The success of the Hanseatic League emerges from a number of sources. Among others, the responsible practices and institutions are the parallel existing regional city-leagues, princely privileges such as safe conduct, as well as entitlement to protection, insurance and, if necessary, compensation as requirements for external trade relations. In addition, public peace (*Landfriede*) for certain places (e.g. markets), persons (e.g. merchants) and activities (e.g. trading) guaranteed by sovereigns likewise assisted in the Hansa success story. An additional reason for this extraordinary form of cooperation was the strong feeling of solidarity that the members obtained over the centuries.²⁷ This solidarity developed as a result of the successful protection of Hanseatic merchants, the provision of privileges for them abroad and the safeguarding of their observance by foreign cities and sovereigns.²⁸ In this respect, the Hanseatic League is primarily an interest-based association of actors in the context of common challenges and thus similar to today's transboundary governance arrangements as well as the EU. But in contrast to the EU, the League is only a "loosely coupled model" of governance.²⁹ Based on its collective interests, the Hanseatic League dominated the trade between East and West in Northern Europe.

Not until these common interests disappeared, did the Hanseatic League cease to exist. The cause for this decline was, on the one hand, that its socioeconomic system proved to be incapable of keeping up with changed conditions (most notably the fragmentation of trade in diverse markets and the related appearance of additional competitors from other regions of Europe) and, on the other hand, that the political power of the Hanseatic League could no longer compete with the power of sovereigns.³⁰

27. P. DOLLINGER, op.cit., p.10.

28. The privileges consisted basically of judicial and political guarantees for the security of persons and goods as well as discounts of fees and – where required – claims for compensation. See P. DOLLINGER, op.cit., p.245; for lists of privileges, see e.g. S. JENKS, *Transaktionskostentheorie und die Mittelalterliche Hanse*, in: *Hansische Geschichtsblätter*, 123(2005), pp.36-38; P. STÜTZEL, *Die Privilegien des Deutschen Kaufmanns in Brügge im 13. und 14. Jahrhundert*, in: *Hansische Geschichtsblätter*, 116(1998). These privileges encountered resistance not only by non-Hanseatic merchants but also by several sovereigns who viewed them as a restriction of their fiscal autonomy.

29. C. JAHNKE, op.cit., p.27.

30. S. SELZER, *Die mittelalterliche Hanse*, Wissenschaftliche Buchgesellschaft, Darmstadt, 2010; O. GELDERBLOM, *The Decline of Fairs and Merchant Guilds in the Low Countries 1250-1640*, in: *Jaarboek voor Middeleeuwse Geschiedenis*, 7(2004), pp.99-238; A. GRABMANN (ed.), *Niedergang oder Übergang? Zur Spätzeit der Hanse im 16. und 17. Jahrhundert*, Böhlau, Köln, 1998; E. PITZ, *Steigende und fallende Tendenzen in Politik und Wirtschaftsleben der Hanse im 16. Jahrhundert*, in: *Hansische Geschichtsblätter*, 102(1984), pp.39-78; R. SPRANDEL, *Die Konkurrenzfähigkeit der Hanse im Spätmittelalter*, in: *Hansische Geschichtsblätter*, 102(1984), pp.21-38.

The Hanseatic League as a cross-border governance arrangement

Describing the Hanseatic League as an actor in a modern sense is of course not without problems. It is also difficult to determine when the organization was founded and when it ceased to exist.³¹ Furthermore, it consisted of associations of merchants on the one hand and loosely connected cities on the other hand. The cities were not completely independent from the secular or ecclesiastical rulers in whose territory they were situated. They were subordinated to different sovereigns like the Teutonic Order, princes or bishops. In addition, it is important to note that it has never been clear exactly which date a specific city became a member of the League. Even in the case of such a prominent member as the city of Cologne, there exists no document that would prove its membership in the Hanseatic League.³² Beyond that, among the larger *Kontore* (trading posts)³³ in Bergen, Bruges, London and Novgorod, each had their own political autonomy and organizational structure (statutes, leader, court, cash box and seal).³⁴

The cooperation of these diverse actors was moreover based on a rather weak institutional basis with only the Hanseatic Diets, where the cities send their representatives, offering a meaningful institutional framework.³⁵ They acted as the highest authority of the Hanseatic League and decided on the ratification of treaties, on trade privileges, negotiations with foreign cities or sovereigns, the dispatch of envoys, financial and military measures, commercial standards of all sorts, the exclusion and admission of members, the settlement of conflicts between cities, etc.³⁶ However, the Hanseatic Diet was convened only sporadically – every two to three years on average. In fact, the League did not maintain its own administrative staff until the mid 16th century. At no time could the organization rely on its own seal and budget, let alone armed forces.³⁷ Since its appearance, it was part of the spreading regionalization of political power in the Holy Roman Empire and therefore its members were anxious

31. In addition, “one cannot draw a mono-causal portrait for the ‘advance’ of the merchants and cities of the Hanse”, R. HAMMEL-KIESOW, *The Early Hansas*, in: D.J. HARRELD (ed.), *A Companion to the Hanseatic League*, Brill, Leiden and Boston, 2015, p.63; see also J. SARNOWSKY, *The ‘Golden Age’ of the Hanseatic League*, in: Donald J. Harreld, op.cit.
32. §E. DAENELL, *Die Blütezeit der Deutschen Hanse*, de Gruyter, Berlin, 2001.
33. *Kontore* throughout the text refers to the plural of *Kontor*.
34. A. FINK, *Under what conditions may social contracts arise? Evidence from the Hanseatic League*, in: *Constitutional Political Economy*, 2(2011), pp.173-190.
35. H. SCHWERDTFEGGER, *Die Hanse und ihre Städte*, Aschenbeck & Holstein Verlag, Delmenhorst, 2004.
36. P. DOLLINGER, op.cit., p.125; V. HENN, *Hansische Tagfahrten in der zweiten Hälfte des 14. Jahrhunderts*, in: H. WERNICKE, N. JÖRN (eds), *Beiträge zur hanischen Kultur-, Verfassungs- und Schifffahrtsgeschichte*, Böhlau, Weimar, 1998, pp.1-21.
37. E. PITZ, *Die Verfassung des hansischen Bundes in den Rezessen der Jahre 1435 bis 1460*, in: H. WERNICKE, N. JÖRN (eds), op.cit., pp.23-41.

to adapt its organizational structure to these requirements.³⁸ Against this background, it is all the more remarkable that the Hanseatic League succeeded in realizing common trade blockades (e.g. against Norway in 1284-1285 and Flanders in 1280-1282, 1307-1309, 1358-1360, 1388-1392 and 1451-1457), successfully waging wars (e.g. with Denmark between 1361 and 1370, with Holland in 1438-1440 and 1512-1514 and England in 1468-1474) and curbing piracy. Nevertheless, all efforts to form solid alliances with an obligatory character had only moderate success because the cities distrusted political and military commitments.³⁹

However, the Hanseatic League managed to secure the interests of its members in the face of many competing actors over a very long period, thus substantially influencing politics in Northern Europe. This is not plausible without the support of its members and other actors which awarded the League with the status of a legitimate actor. The following will present the indicators which assess the normative legitimacy (*Anerkennungswürdigkeit*) of the Hanseatic League. In addition, we will have a look on how the organization lived up to these indicators. For this purpose, the legislative records of the Hanseatic League as well as secondary literature will be consulted.

Representativeness

To claim representativeness, I assume that cross-border governance arrangements have to include all relevant stakeholders in the decision-making process (matching principle). This is justified by the assumption that stakeholders' preferences are not fixed in advance and unchangeable, but are formed during the process of standard-setting and decision-making. Therefore, such processes must be designed in a way which guarantees the maximum possible participation.⁴⁰ However, it is obvious that for practical reasons, not all rule addressees can be included in the decision-making process. In the case of the Hanseatic League, this is due to a lack of will or resources. In this respect, the League has to identify possible members and mobilize them for participation. In order to measure the extent to which the matching principle is attained, it must be examined if certain actors are excluded, and if the system favours a special group of stakeholders.

38. The growing territorialization in the Holy Roman Empire in the 15th century caused, particularly since the 1440s, Hanseatic activities to help securing city autonomy and to gain profile as a counterbalance to the developing territorial state. See H. WERNICKE, *Von Rechten, Freiheiten und Privilegien – Zum Wesen und zur Dynamik in der Hanse*, in: H. WERNICKE, N. JÖRN (eds), op.cit., pp.283-297).

39. P. DOLLINGER, op.cit., p.114.

40. R. DAHL, *Democracy and its Critics*, Yale University Press, New Haven/London, 1989.

Concerning the membership of cities in the Hanseatic League, no comprehensive official register ever existed.⁴¹ At the beginning, the common interest to protect the merchants abroad was enough for a city to become a member of the Hanseatic League. Later on, cities whose membership was not considered official had to apply for admission and wait for the Hanseatic Diet had to decide;⁴² yet small cities could affiliate without official accreditation. From 1494 on, only the leading cities were allowed to decide about the membership of merchants and in so doing, they decided which cities belonged to the Hanseatic League. Aside for the Hanseatic Diets, Hansa centres such as Brussels held so called *Drittelstage* (thirds conventions) as a further form of gathering in a more regional context. Here, member cities from different regions were pooled into three circles (thirds): the Wendish-Saxon *Drittel*, the Westphalian-Prussian *Drittel* and the Gothlandian-Livonian-Swedish *Drittel*. In these circles, the leading cities (Lübeck, Cologne, Riga) performed the function of a mediator between the regional and the cross-border-level and by this gained more influence. The *Drittelsstage* were centred on regional issues and helped overcome the poor attendance at the main Hanseatic Diets.

Furthermore, there were regional conventions held by neighbouring cities (even those not belonging to the Hanseatic League) with similar intentions of saving costs, deliberation and to prepare for the Hanseatic Diets.⁴³ They served not only as a forum for the deliberation of Hanseatic affairs but often authorized the councillor of a member city to represent all concerned cities at the Hanseatic conventions.⁴⁴ Also, with regard to the implementation of decisions, the settlement of disputes and the formation of specific alliances (*Tohopesaten*) in the context of military obligations, the regional conventions played a significant role.⁴⁵ For the majority of Hanseatic cities, these regional conventions were the only forum beyond their city wall that gave them the opportunity to comment on Hanseatic issues. Thus, the administrative and political functions of the Hanseatic League were exercised by three hierarchically ordered bodies: the council of the cities at the lowest rank, the regional conventions (and the *Drittelstage*) and finally the Hanseatic Diets at the top – the only specific Hanseatic institution.⁴⁶ In this respect, one can speak here of multilevel governance, to use a modern term.

Although this structure safeguarded a rather broad reach and by this a high degree of representativeness, it has to be considered that the Hanseatic Diets, where the decisions finally were made, were attended only by a minority of the member cities.

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41. According to Dollinger, the reason was that Hanseatic cities wanted to protect themselves against recourse claims and claims for compensation in case one of its members incurred a penalty abroad. See P. DOLLINGER, op.cit., p.118; I.A. IWANOV, *Die Hanse im Zeichen der Krise*, Böhlau, Köln, 2016, pp.65 sqq.
 42. Cities were rejected primarily because of their remote location (for example Konstanz) or because they were feared as disloyal competitors that transferred the access to privileges on foreigners (e.g. Utrecht or Narvas), see P. DOLLINGER, op.cit., p.121.
 43. H. WERNICKE, op.cit., p.291.
 44. G. GRAICHEN, R. HAMMEL-KIESOW, op.cit., p.260.
 45. Ibid., p.261. See also I.A. IWANOV, op.cit., pp.79 sqq.
 46. P. DOLLINGER, op.cit., p.131.

In fact, only the ambassadors of the cities that were affected by the discussed affairs attended the Hanseatic Diets. However, in order to act in the Hanseatic League, these cities had to obtain approval of proposed courses of action by the other affected cities in order to win their support.⁴⁷ In particular, in the case of questions of political relevance concerning alliances or military engagements, as well as issues that entailed high costs, decisions were difficult to bring about. In addition, envoys remained bound by the decisions of their city councils when participating in the Hanseatic Diet.⁴⁸ They could make decisions on their own regarding to what extent the intentions of their individual city were still compatible with the common will of the Hanseatic League, but when the point was reached where their authority expired, the issue had to be returned to their hometown for a new round of deliberation in the city council. However, the cities were bound only as long as the will of their envoy was in line with the intentions of the community.⁴⁹ In this regard, we have to keep in mind that the city councils were dominated by the merchant elite whereas guilds were more or less locked out. Moreover, decisions made at the Hanseatic Diets took effect only when they were incorporated into the law of the different cities, because only they had the sovereign right to force the merchants to follow the rules.⁵⁰

Accordingly, the Hanseatic League possessed no sovereign power to implement their decisions in the member cities, because the cities were not allowed to delegate their sovereignty to another authority according to their certified autonomy. Given that each city had to check the decisions of the Hanseatic conventions with regard to their usefulness at home, and that the adoption of harmful decisions violated their official oaths, the decisions hardly ever became codified in city law.⁵¹ In sum, although the Hanseatic Diets were attended only by a minority of the member cities, the three-level structure of deliberation and the autonomy of cities made sure that each city had the chance to participate in a way and to safeguard its interests. Cities were excluded primarily because of their remote location or because they were feared as disloyal competitors. If we abandon foreign actors (e.g. non-Hanseatic merchants, the nobility, kings etc.), who were of course also concerned about the activities of the Hanse, we can state that the representativeness of the League was rather high.

47. R. HAMMEL-KIESOW, *Die Hanse*, C.H. Beck, München, 2004, p.69.

48. If the matter did not concern the council alone, the other office holders in the city also took part in the deliberations on decisions. This applied for all those cases in which the city was restricted in its rights, the wealth of citizens could sustain a loss, as well as in cases of decisions about alliances, war, money and financial matters. See R. HAMMEL-KIESOW, *op.cit.*, p.71.

49. "This provision thwarted the formation of a common political will in each single case, and in all efforts to make the Hanseatic League more forceful, was never penalized. [...] Everybody knew that this was an elementary part of the Low-German municipal law no city would let go of", R. HAMMEL-KIESOW, *op.cit.*, p.72.

50. "Nevertheless, the Hanseatic Diets of the fifteenth century left a growing corpus of legislation which regulated many aspects of civic life", J. SARNOWSKY, *op.cit.*, p.99.

51. R. HAMMEL-KIESOW, *op.cit.*, p.75.

Political equality

Another central indicator of input-legitimacy is the (a)symmetrical allocation of power, resources and communicative capabilities of the different actors participating in cross-border governance arrangements. Asymmetric power can undermine the effective claim of formally equal participation rights and risks leading to the systematic under-representation of particular groups of actors.⁵² This possible problem is countered by institutional provisions that seek to correct – where appropriate – these imbalances. The degree of political equality in a governance arrangement is measurable, for example, by asking to what extent all actors possess equal status as members, have equal access to information and equal voting rights.⁵³ It must be considered to what extent governance arrangements guarantee these freedoms and rights in practice and make resources available to those groups that cannot afford to participate in relevant meetings.

A basic principle of the Hanseatic League was that all its merchants form a community of people having equal rights and therefore had the same privileges abroad. In contrast, the rights of foreign competitors were increasingly restricted. They were largely excluded from Hanseatic privileges and their activities were restricted by several measures (condensed under the label of *Gästerecht*). But also, inside the Hanseatic League, political equality was only formally realized between merchants. The alliance was dominated by an informal, inter-urban and far-reaching leading group connected by regional marriages and information circles which were constitutionally non-existent and whose members belonged to the ruling elites of their hometowns.⁵⁴ The envoys at the Hanseatic Diets were especially able to exert considerable influence on the politics of the League because of their expertise resulting from long-term engagement.⁵⁵ Rolf Hammel-Kiesow observes mainly structural reasons for this. In the late Middle Ages and the early modern age, the wide range of Hanseatic trade and policy could be bridged only by personal relations or legal ties not by institutions. As such, the common will in practice meant the will of the oligarchic ruling elites.⁵⁶

Even between the cities, no absolute political equality existed. Formal political equality was undermined by an informal hierarchy.⁵⁷ About 70 cities could be called full members, those invited to the Hanseatic Diets represented directly or by an ambassador of another city, as well as those contributing financial and military means. More than 100 additional cities were only passive members, interested solely in the

52. P. SCHMITTER, *Participation in Governance Arrangements*, in: J.R. GROTE, B. GBIKPI (eds), *Participatory Governance*, Leske + Budrich, Opladen, 2002, pp.51-69.

53. M. SAWARD, *Democratic Theory and Indices of Democratization*, in: D. BEETHAM (ed.), *Defining and measuring democracy*, Sage, London, 1994, pp.6-24.

54. R. HAMMEL-KIESOW, op.cit., p.86.

55. V. HENN, op.cit., p.8; G. GRAICHEN, R. HAMMEL-KIESOW, op.cit., pp.288 sqq.

56. R. HAMMEL-KIESOW, op.cit., pp.87 and 89.

57. G. GRAICHEN, R. HAMMEL-KIESOW, op.cit., p.263. See also P. BROOD, *The German Hanse: a medieval European organisation?*, in: H. BRAND, op.cit., p.36.

Hanseatic privileges for their merchants and, apart from that, showed little interest in Hanseatic affairs.⁵⁸ A number of cities declared their withdrawal from the Hanseatic League to elude common burdens or suspended their membership because of the costs associated with it (e.g. the sending of ambassadors). The latter were excluded from the community after a while but could also apply for readmission later on. Thus, beside the extended circle of cities whose Hanseatic quality resulted from the participation of their merchants in the privileges abroad, there was an inner circle of cities which participated not only in trade relations, but were also invited to the Hanseatic Diets and, by participating, were able to influence its decisions.⁵⁹ Because holding the Hanseatic Diets was costly for almost all member cities (mostly only ten to twenty cities were represented), the power of decision between these conventions was conferred on Lübeck (often encompassing important issues), making the city first among equals (*primus inter pares*). In 1418, the city was officially asked to ensure the interests of the Hanseatic League together with the other Wendish cities. Furthermore, as a rule Lübeck was not only the meeting place for most of the Hanseatic Diets, but often also took the initiative in calling for conventions. In these cases, Lübeck selected the date and dispatched the invitations to the other cities. Only their envoys were entitled to vote and this happened in the order they were seated so that Lübeck and the cities placed next to it (Cologne, Bremen, Dortmund, Hamburg) could speak first and thus exercise more influence than the cities placed at the ends of the table.⁶⁰ Due to this rather hierarchical way of decision-making, the legitimacy-effectiveness trade-off (a much-discussed issue in the contemporary global governance debate) did not become overly fierce for the Hanseatic League. Furthermore, the emperor, the archbishop of Bremen, sovereigns as well as delegates of branch offices participated only as guests. As such, they were allowed – on invitation by the Hanseatic Diet – to speak on certain issues while being denied a vote.

In sum, although the members of the Hanseatic League (be it merchants or cities) were formally equal, they accepted not only informal hierarchy but also the leading role of Lübeck as a precursor and spearhead. This was due to the fact that the cities often were reluctant to incur the costs and bear the consequences of substantial participation in decision-making. Whereas political equality is seen as an indispensable part of a legitimate order in the contemporary period, in the era of the Hanseatic League, apparently this was not the case to the same degree. Obviously, functional considerations outweighed equality as a benchmark for good governance. Because the reasons for the member cities to tolerate an informal hierarchy reflects the situation of many stakeholders in contemporary transnational governance arrangements,

58. Since 1604, only 14 cities had full membership rights. All other cities enjoyed an advisory status only. See I.A. IWANOV, *op.cit.*, pp.116–117.

59. V. HENN, *op.cit.*, p.16. See also V. HEIN, *Die kleinen westfälischen „Hansestädte unter Soest“*. Eine Bestandsaufnahme, in: M. HUNDT, J. LOKERS (eds), *op.cit.*, pp.29–51.

60. J.L. SCHIPMANN, *Politische Kommunikation in der Hanse (1550–1621)*. *Hansetage und westfälische Städte* (= Quellen und Darstellungen zur hansischen Geschichte. Band 55), Böhlau, Köln and Weimar, 2004, p.49.

acceptance even today might be generated by the existence of a committed hegemon that is willing and capable to further the common good of the stakeholders.

Consensus-orientation

Another possibility to strengthen (input-) legitimacy is through orienting the processes of policy formation towards the principle of consensus.⁶¹ Processes of consensus-building are based on the exchange of knowledge and arguments, which implies an upgrading of structurally disadvantaged actors with only weak resources. The aim of each actor in these processes is to convince the opposing parties of the superiority of its own argument and to identify overlapping preferences. The more the interests and functional logics of the participating actors diverge, the more the governance arrangements need to look for an encompassing consensus to generate acceptance on the side of the rule addressees and to ensure the continuity of the arrangement.⁶² Based on this assumption, the more stakeholders that agree to a certain policy in a deliberative process, the stronger the perception of legitimacy.

The right to make comprehensive and collective binding decisions by deliberation was reserved for the Hanseatic Diets.⁶³ The aim of the mostly controversial and long-winded deliberations was to form a collective will out of the individual interests of the participating cities, that is, to make common decisions for specific problems. The adjustment of votes even when the sentiments were contrary (*Vergleichung*) was an important starting point for such a procedure.⁶⁴ The cities trusted in the expertise and the diplomatic fortune of the assembled envoys to bring about a decision acceptable and beneficial for all.⁶⁵ For a decision to become valid, a majority of voices was necessary. However, counting the votes was neither common nor necessary. Rather, in most cases, the vote of Lübeck was followed by the others, because it acted as a consensus-builder.⁶⁶

The envoys took turns giving their statements during the deliberation process as long as it took to find a consensus which was subsequently included in the protocol

61. "Input-oriented arguments often rely simultaneously on the rhetoric of 'participation' and of 'consensus'", F.W. SCHARPF, *op.cit.*, p.7.

62. M. JACHTENFUCHS, B. KOHLER-KOCH, *Governance in der Europäischen Union*, in: A. BENZ (ed.), *Governance – Regieren in komplexen Regelsystemen. Eine Einführung*, VS Verlag, Wiesbaden, 2004, pp.77–101.

63. I.A. IWANOV, *op.cit.*, p.44.

64. J.L. SCHIPMANN, *op.cit.*, p.74.

65. E. PITZ, *Bürgerreinigung und Städteeinigung. Studien zur Verfassungsgeschichte der Hansestädte und der deutschen Hanse*, Böhlau Verlag, Köln, 2001.

66. T. BEHRMANN, *Über Zeichen, Zeremoniell und Hansebegriff auf hansischen Tagfahrten*, in: V. HENN (ed.), *Die hansischen Tagfahrten zwischen Anspruch und Wirklichkeit*, Porta Alba Verlag, Trier, 2001, pp.109–124. See also A. PICHIERRI, *Die Hanse – Staat der Städte*, Leske + Budrich, Opladen, 2000, p.66.

(*Rezess*) by the chairman.⁶⁷ Thus, decisions were made only when the chairman of a Hanseatic convention declared a consensus by all envoys. Consensus in this case did not mean unanimity. It was sufficient when there was no appeal against the formulation the chairman chose to sum up the discussion. These decisions formed the law-giving and diplomatic acts of the Hanseatic League and were to be approved and implemented by all member cities.⁶⁸ Nevertheless, the legal effect of the decisions depended on ratification by city councils. Those towns which opposed the League's policies for whatever reason could simply refuse their ratification. In these cases, the League could merely attempt to persuade them to do otherwise.⁶⁹ In sum, in addition to the common interests of the members of the Hanseatic League, which facilitated consensus-building, the flexibility in implementation of its decisions might be a factor in its acceptance.

Accountability

In the throughput-dimension, the accountability of decision-makers is the main characteristic of legitimate governance.⁷⁰ Accordingly, implementation should be performed by mechanisms that ensure the control of an organisation's bodies and the practical implementation of its rules and standards.⁷¹ The One World Trust defines accountability as

“the process through which an organisation makes a commitment to respond to and balance the needs of stakeholders in its decision-making processes and activities, and delivers against this commitment”.⁷²

Accountability encourages decision-makers to anticipate the reactions of the persons concerned (stakeholders) and through this creates a connection between rule-makers and rule-addressees.⁷³ Although accountability is a contemporary concept, it certainly was of relevance even with regard to the Hanseatic League – which could not build on the virtues of religious or territorial leaders ruling by grace of God. Instead, the League was a loosely connected network of cities voluntarily co-operating with the aim of furthering their particular interests. Such a governance arrangement must

67. In order to unify the often widely diverging interests of the city-groups, deviation was approved and agenda items were temporary suspended to allow for deliberations or even entirely adjusted (e.g. in the next Hanseatic convention). More complex problems were delegated in committees that acted as mediators, see J.L. SCHIPMANN, op.cit., pp.82 sqq. and G. GRAICHEN, R. HAMMEL-KIESOW, op.cit., pp.300 sqq.

68. P. DOLLINGER, op.cit., p.128.

69. P. BROOD, op.cit., p.38.

70. S. CHAN, P. PATTERBERG, *Private Rule-Making and the Politics of Accountability*, in: *Global Environmental Politics*, 3(2008), pp.103-121.

71. J. NEYER, *Postnationale politische Herrschaft. Vergesellschaftung und Verrechtlichung jenseits des Staates*, Nomos, Baden-Baden, 2004.

72. ONE WORLD TRUST, *Global Accountability Report*, One World Trust, London, 2007, p.11.

73. A. BENZ, I. PAPADOPOULOS, op.cit., p.275.

generate legitimacy from within and is therefore dependent on the justification of its decisions *vis-à-vis* its members. In addition, cross-border governance arrangements should contain institutionalised procedures for the detection and handling of rule-breakers to prevent them from affecting the common good.⁷⁴

As a precondition for ensuring accountability, the transparency of the decision-making processes must be guaranteed.⁷⁵ This assumes that only an actor who is informed about all stages of the decision-making process is able to put forth its concerns, to comprehend its integration in the decision-making process and to exert its monitoring function and, if necessary, its veto rights.⁷⁶ The Hanseatic Diets were transparent insofar as all Hanseatic cities as well as other interested actors were allowed to participate. Calendar dates for the Hanseatic Diets were published in due time together with a list of the most important issues for deliberation. Even delegates from foreign powers, the Teutonic Knights and the branch offices were allowed to attend the Hanseatic conventions and make a statement when the inviting city deemed it appropriate. After a Hanseatic Diet, its decisions were made aware to the member cities in written form. This practice occurred continuously from 1358, with the names of attendees and the joint decisions recorded.⁷⁷ Admittedly, how the decisions were made, what the contestable points were and which delegation voted how were merely partial documented. On the other hand, information about the course of the negotiations was no secret matter, and it was assumed that the dense personal network inside the Hanseatic League arranged for the diffusion of adequate information.

Accountability existed less for the Hanseatic Diets (the highest authority of the League) and more for the participating delegations from the cities. The latter were bound by the resolutions of their city councils and had to explain their actions to obtain the approval of decisions which deviated from these resolutions (where appropriate, the cities could deny the adoption of decisions). The branch offices (*Kontore*), whose chairmen (*Altermänner*) were summoned before the Hanseatic Diets to report on their activities, were likewise held accountable. Illegal arrogation of competences or breaches of rules on the side of the branch offices or their merchants could not be hidden from the Hanseatic Diets for a long time. This was ensured by the mutual surveillance of merchants by other merchants operating both within the Hanseatic branch offices and outside of them.⁷⁸ Furthermore, intentional breaching of the rules did not happen very often because in so doing, the privileges of the

74. M. ZÜRN, *Introduction: Law and compliance at different levels*, in: M. ZÜRN, C. JOERGES (eds), *Law and Governance in Postnational Europe. Compliance beyond the Nation-State*, Cambridge University Press, Cambridge, 2005, pp.1-39.

75. A. BUCHANAN, R.O. KEOHANE, op.cit., p.426.

76. V. HAUFLE, *The Transparency Principle and the Regulation of Corporations*, in: G.F. SCHUPPERT (ed.), *Global Governance and the Role of Non-State Actors*, Nomos, Baden-Baden, 2006, pp.48-53.

77. S. SELZER, op.cit.

78. A. FINK, op.cit., p.202.

Hanseatic League were put at risk and thus had a harmful impact on everyone.⁷⁹ From historical narrations of the efforts to implement the decisions taken by the Hanseatic League, it can be concluded that the cities as well as the branch offices and the merchants took part in the monitoring of the owners of privileges.⁸⁰ Given the limited population of many Hanseatic cities and branch offices, as well as the manageable scale of the trade relations between the merchants, no comprehensive and dedicated resources were necessary to carry out monitoring. This differs with regard to sanctioning-mechanisms as the third dimension of throughput-legitimacy.

To emphasize its entitlements *vis-à-vis* foreign powers, the Hanseatic League could basically resort to three sanctioning mechanisms: negotiations, boycotts or war. At first, a friendly agreement negotiated by the chairmen of the branch offices was desired. If that was not successful, the Hanseatic Diet sent a mission consisting of council members and merchants of multiple cities. If these mediation efforts also failed and the cost-benefit analysis appeared positive, then the Hanseatic Diet enacted boycotts against foreign cities or sovereigns. War was an option only in cases threatening the independence of the Hanseatic League or the safeguarding of its merchants. In case of violations of the boycott-clauses, each of the Hanseatic cities and the branch offices were obliged to take measures *vis-à-vis* citizens and merchants. Regarding the member cities that avoided boycotts or refused to realize orders or violated them, the Hanseatic League relied primarily on persuasion, mediation but also sanctions. This applied also to cases of internal unrest, where the power of the town council was called into question by craftsmen and other citizens, thus undermining the unity necessary to reach decisions (e.g. in Braunschweig, Lübeck, Nordhausen, Stade, Hamburg and Danzig). In most cases, efforts to settle conflicts by letters, messengers, neighbouring cities, admonitions and threats were sufficient to bring the cities in line. If these efforts failed, then the case was brought before the Hanseatic Diet for decision. These decisions comprised the exclusion from the Hanseatic League (“Hansification”), fines and other activities.⁸¹ The exclusion of a city or a branch office implied the confiscation of goods. Cities and branch offices, as well as the merchants, took part in the enforcement of these measures. Sanctions were also imposed on cities that missed the Hanseatic Diet without a good reason preventing the normal functioning of the decision-making procedure. Even individuals could be banned from all Hanseatic cities if they violated the rules, disregarded boycotts or were involved in smuggling.⁸² Yet, corresponding sentences against cities or individuals were enunciated only hesitantly and mostly with no effect.⁸³ In sum, accountability was reached mainly by informal mechanisms. The reason for the abandonment of formal proced-

79. For a contrary view see N. JÖRN, *The crocodile creature merchant: the Dutch Hansa*, in: A. GRASSMANN (ed.), *Niedergang oder Übergang? Zur Spätzeit der Hanse im 16. und 17. Jahrhundert*, Böhlau, Köln/Weimar, 1998, pp.63-91.

80. H. WERNICKE, op.cit., p.292.

81. A. FINK, op.cit., p.209. In 1518, for example, 31 cities were excluded from the Hanse, see S. SELZER, op.cit., p.119.

82. A. FINK, op.cit., pp.202-203.

83. P. DOLLINGER, op.cit., p.127; K. PAGEL, *Die Hanse*, Gerhard Stalling Verlag, Oldenburg, 1943, p.197.

ures and their hesitant implementation is due to the constant efforts of the member cities to retain their autonomy. However, intentional breaching of the rules did not happen very often because the privileges obtained by membership in the Hanseatic League were put at risk, thus keeping cities mostly in line.

As a result of the previous analysis, we can state that the Hanseatic League shows a rather high degree of input legitimacy supplemented by flexibility in implementation and the existence of a benevolent hegemon ready to serve the common good. In contrast, the throughput-legitimacy seems to play a minor role. If we combine these findings to establish a relatively high degree of normative legitimacy, we should find at least some indications of the acceptance of the Hanseatic League by its internal and external stakeholders.⁸⁴ Due to a lack of historical sources which document the attitudes of the rule-addressees (e.g. city councils, merchants, craftsmen, foreign rulers) towards the Hanseatic League, I can only give some indications. The acceptance of a rule or institution manifests itself *inter alia* in the degree to which it succeeded in realizing its goals and in the number of stakeholders which voluntarily subordinate themselves to a governance arrangement.⁸⁵ Furthermore, the view of outside actors in relation to the League is also of interest. In the following, due to the current state of source material, I can give only some clues on the subject.

Acceptance

Output-legitimacy, as conceptualized in this paper, is not only the fulfilment of targeted goals, (effectiveness, i.e. the promotion of the common good and the solution of shared problems), but also the degree to which a governance arrangement succeeds in generating acceptance by its internal and external stakeholders.⁸⁶ When applying this conception of output-legitimacy, two aspects need to be differentiated: First, the performance of the Hanseatic League with regard to the fulfilment of its targeted goals; and secondly, the acceptance of its rules and decisions that manifests itself in the number of cities which voluntarily subordinate themselves to the League.⁸⁷ When applying effectiveness as the conception of output-legitimacy, the main indicator of performance of the Hanseatic League is how effectively it protected the interests of its members abroad *vis-à-vis* their competitors.

84. S. BERNSTEIN, *Legitimacy in Intergovernmental and Non-State Global Governance*, in: *Review of International Political Economy*, 1(2011), pp.17–51.

85. D. BEETHAM, op.cit., p.92.

86. F.W. SCHARPF, op.cit. One reason is that the causal chain between the performance of a governance arrangement and the state of a policy field is difficult to establish. Another reason is that it is not possible to designate what a solution of a common problem is and when it serves the common good. Thirdly, solutions must be viewed in relationship to the preferences of stakeholders. In this respect, solutions are effective and fair only when they are accepted by the stakeholders.

87. D. BEETHAM, op.cit., p.92.

Historical sources suggest that the legitimacy of the Hanseatic League is to a considerable degree derived from its effectiveness in promoting the common good of the merchants and cities, i.e. in the reduction of transaction costs, in facilitating interregional trade, in the preservation of privileges and liberties abroad and in the protection of the League's markets and trading routes from competitors.⁸⁸ Over a very long period, the Hanseatic League was successful in acquiring trade privileges for its merchants abroad, and to defend them against opposition and competition thus enabling its members to gain a competitive advantage *vis-à-vis* other merchants.⁸⁹ The background for the realization of these aims was its advantage in competition resulting from its bridge-building function between the range of goods of Northern and Eastern Europe. This enabled the Hanseatic League to satisfy the market in the Western- and Central-European regions, rendering themselves indispensable to the respective rulers. Hanseatic trade was not restricted to consumer goods alone, but rather was dominated by raw materials, processed goods and semi-finished products for various industries. With its diversified distribution system, its transportation capacities and its organizational design the Hanseatic League succeeded in making relevant goods available on the markets of even the smallest cities.⁹⁰ The Hanseatic towns benefited by three types of institutions which safeguarded their commercial interests:

“The first – and oldest – institutions were the commercial privileges conceded to Hanseatic merchants by foreign rulers, lords and cities. The second type of institution was the internal Hanseatic preference system, and the third were the cartel policies of the Hanse against foreign traders, which sometimes amounted to full-blown commercial boycotts”.⁹¹

Building on this basis, the Hanseatic League was able to extend its influence even further. With the help of its privileges, it managed to substantially and consistently reduce the costs of trade. The diplomatic missions of the Hanseatic Diets reduced material and measurement costs, bargaining costs and implementation costs.⁹² In its early stage (12th and 13th century), the Hanseatic League already succeeded in lowering the costs for storage, loading and unloading, as well as carrying and custom charges by the agreement of accordant privileges. The network structure of the Hanseatic trade – manifested in relations of kinship and friendship between the merchants and the reciprocal appointment of trade representatives – likewise contributed to the reduction of information costs.⁹³ Besides the reduction of transactions costs,

88. H. BRAND, *op.cit.*, p.25.

89. See e.g. P. DOLLINGER, *op.cit.*; S. SELZER, *op.cit.*; G. GRAICHEN, R. HAMMEL-KIESOW, *op.cit.*; J. SARNOWSKY, *op.cit.*, p.100.

90. R. HAMMEL-KIESOW, *Europäische Union, Globalisierung und Hanse. Überlegungen zur aktuellen Vereinnahmung eines historischen Phänomens*, in: *Hansische Geschichtsblätter*, 125(2007), pp.1-44.

91. L. HEERMA VAN VOSS, E. VAN NEDERVEEN MEERKERK, *The Hanse and after*, in: H. BRAND, *op.cit.*, p.230.

92. G. GRAICHEN, R. HAMMEL-KIESOW, *op.cit.*, p.290. See also J.L. SCHIPMANN, *op.cit.*, pp.92 sqq.

93. G. GRAICHEN, R. HAMMEL-KIESOW, *op.cit.*, p.319. See also U.E. EWERT, S. SELZER, *Social Networks*, in: D.J. HARRELD (ed.), *op.cit.*; K. PAGEL, *op.cit.*, pp.81 sqq.

the Hanseatic League moreover succeeded in establishing firm conditions (including effective prosecution and enforcement) by the decisions of the Hanseatic Diets – especially pronounced in the initial stages of a trans-territorial standardization of marine law. To implement its decisions, the Hanseatic League could resort to the codified municipal law of its member cities as well as their resources. During the European Late Middle Ages, this system was a successful alternative to the hierarchical big trading firms.⁹⁴ In order to establish, secure and uphold extensive trade relations, already by the 13th century, the merchants and councillors of the Hanseatic cities engaged in diplomacy with a European character. Thus, the British ambassador Dr Russel stated during the peace talks in Utrecht in 1474, that he would prefer to negotiate with all rulers of the world rather than with the Hanseatic ambassadors.⁹⁵ Furthermore, the League benefited from the underdevelopment and the fragmentation of the kingdoms and princedoms at that time.

More specifically, the conflicts abroad between 1250 and 1350 repeatedly enforced the solidarity of the Low-German merchants and their cities. Graichen and Hammel-Kiesow attribute Hanseatic effectiveness at naval warfare to its innovative character. According to them, the spectrum varies from the initiation of naval blockades against Norway in 1284, to amphibious landings during the two wars against king Waldemar IV of Denmark, to the first major naval action with ship artillery from a distance conducted in 1428 in Copenhagen.⁹⁶ Thus, the Hanseatic League succeeded in defending its core trading territory against competitors. However, the Hanseatic cities were rather reluctant to participate in military actions and alliances (*Tohopesaten*), demonstrated by their often poor contribution of corresponding financial means (*Pfundgeld*) or their refusal to ratify resolutions of an alliance.⁹⁷

Nevertheless, resulting from their successes on the diplomatic and military field, a trans-local feeling of solidarity developed that was occasionally called a “Hanseatic identity” or rather a “Hanseatic culture”. This sense of community rested not only on the predominantly positive experiences with the League as an interest group safeguarding privileges abroad, but to a considerable degree on the kinsmanlike interdependence of the Hanseatic merchants and their interest in preserving leading positions both economically and politically. Family bonds and other informal connections between the members of the leading group of Hanseatic towns were similarly important for the political structure of the Hanse to persist. They were based mainly on a common culture, trust, and reputation.⁹⁸

“In contrast to modern society with its individualistic orientation, medieval society was characterised by the dominance of rituals and customs, as well as by collective standards and forms of conduct which submitted the behaviour of its members to far-reaching regu-

94. G. GRAICHEN, R. HAMMEL-KIESOW, op.cit., p.320.

95. R. HAMMEL-KIESOW, op.cit., pp.26-28.

96. G. GRAICHEN, R. HAMMEL-KIESOW, op.cit., p.261.

97. The alliances of towns (*Tohopesaten*) “were only agreed upon temporarily and were never intended to become part of the overall structures of the Hanseatic League”. See J. SARNOWSKY, op.cit., p.95.

98. U.E. EWERT, S. SELZER, op.cit., pp.170 and 185.

lation [...]. Despite being primarily orientated towards economic and trade policy, the Hanseatic League was embedded in a mesh of social, spiritual and cultural connections – one can see these shared values at the root of the many hierarchical quarrels within the Hanse, and the social background was often what enabled the Hanseatic leading class to jointly act as one. The concept of a community of interests, purely economically oriented, fails to understand these underlying connections and relations”.⁹⁹

Other reasons for the development of a Hanseatic identity were the use of Low German as the common language, the spread of common values across the Baltic as a by-product of migration and the growing dominance of the municipal law of Lübeck in the Baltic that soon served as a common ground for all Hanseatic merchants.¹⁰⁰

When applying acceptance as the conception of output-legitimacy, the main indicator of performance of the Hanseatic League is the number of cities (and merchants) which voluntarily subordinate themselves to the League and the degree to which it succeeds in generating approval by its external stakeholders. The acceptance of the Hanseatic League can be demonstrated firstly by the high number of members (almost 200 cities) and secondly by its ever wider geographical distribution. Furthermore, numerous other cities approached the Hanseatic League for membership time and again either via the Hanseatic Diets or the regional conventions. Obviously, a considerable part of its acceptance resulted from its flexible structure and the fact that the League imposed only a limited number of obligations on its members.¹⁰¹

“The lack of a real constitution left individual towns and their agents enough room to delay decisions through alleged necessary consultations in their home towns, asking for special conditions, leaving before decisions were made, or neither to announce them at home nor to realise them”.¹⁰²

In addition, cities could leave the League, when a decision made by the Hanseatic Diet was not in their interest and later on apply for a readmission. This made it easier for the League to make decisions by consensus. The Hanseatic League was a loose alliance, a partnership of convenience without a fixed structure of statutes that restricted the leeway of its members. In this framework, only the councillors and merchants of the cities that were directly affected by a problem became active and only those who profited by an action paid for it – exemplified by even allowing for exceptions from naval blockades. Thus, the autonomy of the member cities of the League was safeguarded to a considerable degree.¹⁰³

“As long as the Hanseatic network succeeded in offering an environment that protected the common interests of at least a group of towns, it remained an alternative to other power constellations and continued to generate some degree of loyalty among its members”.¹⁰⁴

99. U. WEIDINGER, *Bremen – A Difficult Ally?*, in: H. BRAND, op.cit., p.148-149.

100. U.E. EWERT, S. SELZER, op.cit., p.186.

101. R. HAMMEL-KIESOW, op.cit.; H. BRAND, op.cit., p.259.

102. R. HOLBACH, *Cloth production, Hanseatic cloth trade and trade policy*, in: H. BRAND, op.cit., p.91.

103. A. PICHIERRI, op.cit., p.80; G. GRAICHEN, R. HAMMEL-KIESOW, op.cit., p.342.

104. H. BRAND, op.cit., pp.256 sqq.

This remained until the modern state proved better able to mobilize its administration and diplomatic apparatus for the benefit of its citizens.

The bulk of the citizens of Hanseatic cities were largely indifferent towards the League.¹⁰⁵ Citizens uninvolved in overseas trading were nevertheless suspicious of the individual trade interests of many councilmen, questioning their commitment to the overall welfare of the city, especially in times of crisis. The Hanseatic League was primarily experienced as an organization of the merchant elites whose decisions did not necessarily serve the welfare of the community. At best, with regard to the acceptance of the Hanseatic League, one can speak of a permissive consensus.

Thus, a broad base of supporters who identified themselves permanently with the Hanseatic League even beyond their concrete interests was lacking. Therefore, the Hanseatic League depended basically on the benefits it brought about for the merchants and councilmen (that is the economic and political elite). When these benefits declined, the existence of the Hanseatic League was at risk. For the same reason, the bylaws drafted for the first time in 1417 experienced several modifications and amendments in the following years that were not always accepted by the citizens. Thus, for example, the provisions against domestic political opposition within the cities occasionally caused substantial protest on the part of the citizens of the Hanseatic cities (e.g. in 1418 in Bremen and Stettin) and forced the respective councillors to withdraw their enactment. This demonstrates that the policy of the Hanseatic League was frequently contested outside the circle of long distance merchants.¹⁰⁶ The section of the municipal population that did not directly participate in long-distance trading was suspicious with regard to the linkage of the individual interests of many of the councillors in free trade with the general welfare of the cities, particular in times of crisis.¹⁰⁷

On the side of external stakeholders – to which non-Hanseatic merchants as well as princes and kings belonged – the privileges of the Hanseatic League were often perceived as discriminatory. This perception was aggravated the longer these privileges were upheld and the more comprehensively they were designed.

“Although diplomatic actions and coercive tactics were quite successful in the fourteenth century, with the victory against the Danish king Waldemar in 1370 being the League’s traditional zenith, the situation altered halfway through the fifteenth century. The League gradually declined under the pressure of the rising modern state”.¹⁰⁸

Thus, in September 1604, King Jacob I. of England refused to re-establish Hanseatic privileges, arguing that he would like to be in compliance with the wishes of the Hanseatic ambassadors, but privileges of this kind proved to be too disadvantageous for the Kingdom.¹⁰⁹ In addition, the commercial offensive of the Dutch and English merchants, the increasingly better coordinated activities of the sovereigns against the

105. R. HAMMEL-KIESOW, *op.cit.*, p.39.

106. G. GRAICHEN, R. HAMMEL-KIESOW, *op.cit.*, p.304.

107. R. HAMMEL-KIESOW, *op.cit.*, p.39.

108. H. BRAND, *op.cit.*, p.15.

109. G. GRAICHEN, R. HAMMEL-KIESOW, *op.cit.*, p.341; see also N. JÖRN, *op.cit.*

autonomy of the cities, the class conflicts in the cities, as well as the looming clashes of interest between the cities of the Hanse, were all responsible for the decline of the League.¹¹⁰ Nevertheless, the good reputation the Hanseatic League enjoyed over the centuries only slowly disappeared, more slowly than its actual power.

Conclusion

The main question of this article was how the Hanseatic League succeeded over many centuries in generating governance across borders and thereby securing the solidarity and compliance of its members. The intention of this study was to investigate what we can learn from the Hanse for the design of contemporary forms of cross-border governance, e.g. the European Union. A couple of attributes which only partly resemble the contemporary indicators of legitimate governance offer part of the answer. Thus, the Hanseatic League is characterized by its openness towards merchants and later on towards the cities. Formal admission procedures were introduced only later, yet the accordant criteria had a liberal design. In addition, formal equality and the three-level structure of deliberation as well as the autonomy of the cities made sure that each member city had the chance to participate and safeguard its interests. Secular and clerical rulers, as well as foreign actors, could take part in the Hanseatic conventions and put forth their concerns, however, only when invited by the organizing city and only to discuss agenda items that were of special relevance to them. Apart from this latter restriction, we can state that the representativeness of the league was rather high. In contrast, admission to the EU is rather restricted and subject to the fulfilment of a comprehensive body of legislation (the *acquis communautaire*).

Regarding equal participation, inside the Hanseatic League it was differentiated between full and passive members. In addition, cities were internally ranked, headed by Lübeck and followed by Cologne, Bremen and Hamburg. It is also worth mentioning the unique influence of the envoys (and their families) on the activities of the Hanseatic League. Combined, the members of the Hanseatic League accepted not only informal hierarchy but also the leading role of Lübeck and the envoys, although formally they had an equal status. In contrast, the rights of foreign competitors were increasingly constrained over time. Concerning the EU, there is a more equal participation of its members although informal inequalities do exist.

With regard to the decision-making procedures of the Hanseatic League, a high degree of consensus-orientation existed. For a decision to be made, it was sufficient if the discussion summary made by the chairman of the convention was not appealed. In practice, this meant that the resolutions proposed by Lübeck were frequently adopted by the other cities. Efforts to strengthen solidarity and the capacity to act were based on allowing decisions of the Hanseatic Diets to be arrived at by majority voting (instead of unanimity) and even absent cities complied with them if they deemed it

110. A. PICHIERRI, op.cit., p.98.

beneficial. Cities disregarding or resisting decisions made by the convention faced three possible courses: receiving a delegation attempting to persuade them to cease and desist; punishment through exclusion from privileges; or anticipating punishment, pre-emptively opting out of the League before the Hanseatic Diet began.¹¹¹ This indicates that resistance manifested itself more in the implementation stage rather than the decision-making process. Through this mechanisms, the capacity to act was secured while simultaneously allowing for flexibility in implementation of the league's decisions. The latter gave the rule-addressees the chance to preserve their autonomy. This flexibility in dealing with the decisions and rules added to the legitimacy of the Hanseatic League. Although rules of decision-making are more institutionalized in the EU, there is also a comparable effort towards building consensus.

Referring to accountability, the Hanseatic Diet itself was not under any kind of oversight, was not formally accountable to anyone and was not subordinated to an independent juridical authority. In contrast, the branch offices were accountable to the Hanseatic Diets and the envoys to their councillors, due to the autonomy of the member cities and the availability of decisions in written form. However, how the decisions were made and which delegation voted how is merely partly documented. In this regard, it is safe to assume that the relations between the members and their dense personal and financial entanglements certainly facilitated the diffusion of information. Due to the trust in the expertise and the diplomatic fortune of the assembled envoys, transparency and control were nothing the members of the Hanseatic League worried about. The monitoring of the rule-addressees was carried out by the mutual informal control as well as the suspicious foreign merchants and cities in the countries where the Hanseatic League enjoyed privileges. Admittedly, a procedure enforcing accountability was missing. Sanctioning mechanism were available but were used only reluctantly and often with no effect. The last point is quite corresponding with the practices of the different EU bodies although the EU disposes of several accountability mechanisms.

Next to these indicators for normative legitimacy, which are used quite often in contemporary analyses of cross-border governance arrangements, the case of the Hanseatic League points to an additional indicator for legitimacy: the existence of a committed hegemon, convincingly willing and capable to further the common good of the stakeholders (in this case the member cities) without neglecting its own interests.¹¹² Actors characterized by a lack of resources, selective interests and a rather high autonomy appreciated delegating some common tasks to actors with strong resources and the political will to serve the community. Lübeck was asked in 1418 to assume control over the Hanseatic trade policy because it had the broadest interests and the most multilateral trade relations. It was therefore more often than not in line with overall Hanseatic interests. The role of Lübeck resembles that of a benign hegemon, suggesting that transboundary governance arrangements can be well-served

111. V. HENN, *op.cit.*, p.17.

112. This resembles the role the US played in the IMF, the World Bank or the WTO, or the role the EU played in international climate change politics in the 1990s.

by a powerful actor operating as a service provider, consensus-builder and precursor for all the other members. Because the edicts of Lübeck were frequently treated as binding by most of the other cities, one might talk of the “legitimacy of authority” (Max Weber). This authority based on the central geographic location of Lübeck, its wealth and size, its role as the most important source of information, its capacity to negotiate with foreign powers at its own expense, the quality of rank maintained by its elites and finally, its established reputation in the Holy Roman Empire, the Hanseatic League and in Northern Europe.¹¹³ In the past, France and Germany together sometimes played a comparable role for the EU and the other member states accepted it more or less. This obviously changed in the last decade and it could be worthwhile to think about ways how both states could regain this role to the advantage of the EU.

Finally, compared to the European Union, it seems plausible to presume that the Hanseatic League gained its high degree of internal acceptability through its loose and rather horizontal organizational design and its flexibility with respect to membership, compliance with and implementation of its decisions. These factors enabled the member cities to reap all the benefits which the Hanseatic League could provide them with and at the same time retain their autonomy if that was more beneficial for them. In the latter cases, they simply refused to implement decisions (which was only rarely sanctioned in a substantial manner) or just dropped out of the League, knowing that they could apply for readmittance later on. Looking at present age, for actors that fear for their autonomy in times of globalisation this might be an alternative model worthy of consideration.

Decisive for the internal acceptance of the Hanseatic League were also its consensus-orientation and its comparatively high effectiveness not least enabled by the existence of a committed hegemon (Lübeck) willing and capable to further the common good. Taken these factors together, the European Union and other contemporary cross-border governance arrangements can possibly learn from the Hanseatic League. An increasing institutionalisation and regulation may be normatively desirable, but the example of the Hanseatic League demonstrates that parallel to these developments – which were observable in the League too – its acceptance declined. Furthermore, the Hanseatic League demonstrated over a long period of time that it was able to perform services for its members that promoted the overall welfare or at least that of the economic and political elites by relying on a loose organizational structure and high flexibility when it came to the implementation of its decisions and rules. The city of Lübeck took the part of a precursor and spearhead in this regard. Only when the capabilities of the Hanseatic League (because of the change of the economic and political structures) and the readiness of Lübeck declined, did the compliance of the members and the acceptance of the League as a common association dwindle. However, that happened more slowly than an analysis aimed solely on the performance of the Hanseatic League would have expected. Thus, it seems plausible that the normative legitimacy (conceptualized as input- und throughput-legitimacy) of the

113. R. HAMMEL-KIESOW, *op.cit.*, p.49; I.A. IWANOV, *op.cit.*, p.46.

Hanseatic League together with its flexibility had a reinforcing and prolonging effect on its acceptance. Whereas the effectiveness of an institution depends on its resources and its assertiveness towards competing actors, elements requiring high costs, the internal procedures and organizational structures can be changed with relatively little expense. Corresponding reforms of the European Union and other cross-border governance arrangements should therefore start on this level and display more flexibility and perhaps look for a precursor willing and capable to lead by example.