3

The Managerial Origins of Institutional Divergence in France and Germany

> I want to gather all our forces behind a veritable economic patriotism.
>
> Dominique de Villepin, French prime minister, 2005[1]

French politicians like nothing better than to proclaim their opposition to free markets. German politicians, contrariwise, generally profess a sober appreciation of the virtues of market regulation. Yet the reality of markets for corporate control is often far removed from the rhetoric of political leaders. Despite the openness to hostile takeovers expressed by Prime Minister Gerhard Schröder in 1999, hostile takeovers are a rarity in Germany, and the ownership concentration of German companies remains high. In France, by contrast, managers of large companies have embraced takeovers as an effective tool of internal reorganization and abandoned their strategic shareholdings, notwithstanding the periodic calls from political leaders like Dominique de Villepin for those managers to rally behind the banner of economic patriotism. In short, Germany has maintained the institutions that support its passive market for corporate control, while France has dismantled such institutions. This chapter explores the politics that led to these outcomes.

This surprising institutional divergence results from the different preferences of French and German managers of large firms, and from the political capacity of those managers to shape institutions of corporate control. During the 1990s, many French firms shifted toward a strategy of international growth powered by acquisitions abroad and at home. This change in company strategy led managers to dismantle the preexisting institutions of patient capital in France. These institutions were informal, so French managers did not have to act through Parliament to secure their preferred outcomes. In tandem with these moves in the informal arena, neoliberal managers also seized control of the political organizations of the French employers' movement. These organizations

[1] AFP (2005). This was de Villepin's response to rumors of a takeover bid for the French company Danone by the American company PepsiCo in July 2005.

would consistently push for laws that supported the newly active market for corporate control in France, most notably during debates over the European Union's takeover directive between 2001 and 2006.

In Germany, by contrast, firm-level representation of labor remained strong. The legal protection of German workers allows them to make rapid restructuring through takeovers impossible. Thus, German managers, supported by concentrated owners, saw little to like and much to fear in a transition to an active market for corporate control. As a result, such a market never came to Germany. The structure of German employers' associations, which excluded the financial companies most amenable to liberalizing the market for corporate control, reinforced the power of the managerial proponents of the existing German institutions. These groups would be instrumental in forcing Prime Minister Gerhard Schröder to reverse his political position and to protect the German passive market for corporate control in intergovernmental bargaining over the EU takeover directive.

How did these managerial groups succeed in defending their preferred political positions? Lobbying expertise, delegations of governmental authority to business-friendly working groups, and media framing capacity are important tools of managerial power where low salience institutional choices are made in formal arenas, such as legislatures. In a regime structured primarily by formal institutions, managers need to lobby political parties directly. Even when the rules are made in legislatures, the role of managers in informal working groups can set the agenda of legislation to be debated in Parliament. And, if public attention alights on the problem of corporate control – which is a rare happening – managers will also try to frame the public debate in a way that ties their interests to national interests, in order to influence public opinion in their favor. These tools of formal institutional influence were all in evidence during French and German debates over the EU takeover directive, which we explore in the later sections of this chapter.

Yet this chapter also highlights the fact that the use of informal institutions to regulate corporate governance reinforces the already strong hand of managers in the politics of corporate control. Some of the most important debates about French and German institutions of corporate control took place amongst managers and large shareholders at the end of the 1990s. The change of venue from formal to informal institutions converted politicians from manipulable players to interested spectators. Where the most important institutions of economic governance are primarily informal, it is not politicians who decide their fate. It is instead the institutional incumbents who currently maintain those institutions. When the institutions of patient capital are informal, as they were in France and Germany, then managers and blockholders directly control them. Under such conditions, they only have to worry about formal lobbying and public opinion if governments decide to try to pass laws influencing the functioning of these institutions.

This is a very different story than the one portrayed by existing theories of the politics of corporate control. Partisan theorists emphasize left-wing governments and political entrepreneurs as the force favoring the liberalization of corporate governance.[2] They suggest that parties of the left will try to break down patient capital. In Germany, this was true of Schröder's government only for a limited period of time, after which the government did an about-face under managerial pressure.[3] In France, the government of the left was a bystander during the breakdown of the stable shareholdings in the 1990s. When it was no longer in government in 2006, the Socialist Party actively opposed the transposition of the EU takeover directive, which the left correctly viewed as a law ratifying the liberalization of French markets for corporate control. The weakness of the partisanship argument lies in the fact that political parties of the left rarely have strong commitments in the area of corporate control. This chapter shows for the French case that left parties had little incentive to make corporate control a major political issue, because it was rarely of high political salience. The one time this issue did get some play in the press was in 2006, during the transposition of the European takeover directive, which coincided with Mittal Steel's high profile takeover of the French/Spanish/Luxembourgeois firm Arcelor. When the issue briefly became more salient, the left *opposed* liberalization rather than favoring it. Despite calls for economic patriotism on the right and stakeholder defense on the left, France adopted a neoliberal version of the takeover directive bringing it in the direction of American practice in the field of corporate control. Clearly, theories based on partisanship do not explain these outcomes, as neither left nor right parties adopted a consistent position on the desirability of hostile takeovers.

The second existing explanation, coalitional theory, places the preferences of social coalitions at the center of analysis, while also showing how different electoral institutions can make legal change easier or harder. Peter Gourevitch and James Shinn claim that German labor and business interests have begun to press for a more shareholder-centric system, while the corporatist veto points in the German political system provide many ways for opponents of change to derail reforms. This leads to the philosophical but untestable conclusion that "new alliances are possibilities, but by no means assured."[4] For the rapid institutional change in France, by contrast, Gourevitch and Shinn acknowledge that the changes in ownership structure of the late 1990s have resulted in a system of high managerial autonomy, which they call managerism. To account for such an empirical movement in a manner consistent with the coalitional account, they then fall back on a curious suggestion: "Overall, the decline of statist ideas on the left and the right seems plausibly to explain the movement of French policy."[5] This claim offers no explanatory mechanism connecting changes in the observed coalitions, the policy ideas they favor, and institutional practices regarding takeover protection. The clearest testable prediction

[2] Cioffi and Höpner (2006), Höpner (2007), Tiberghien (2007).
[3] Cioffi (2002).
[4] Gourevitch and Shinn (2005: 167).
[5] Gourevitch and Shinn (2005: 271).

one can derive from coalitional theory is that the majoritarian electoral system in France gives governments greater possibilities for effecting policy changes after a change in power than does the proportional representation system in Germany. If change does not happen in the arena of formal laws, though, no clear prediction emerges from coalitional theory. The possibility of informal institutional change that takes place outside of Parliament is rejected by assumption.

This chapter compares the mechanisms of quiet politics with those of partisan and coalitional theories of corporate governance. It does so by considering different episodes of institutional contestation in France and Germany between 1995 and 2007. The first section explains why managerial preferences diverged in France and Germany in the mid-1990s, and the second section explores the salience of corporate control over time in France. The remainder of the chapter then contrasts the battles over corporate control that took place in informal arenas, at the end of the 1990s, with the debate over the negotiation and implementation of the EU takeover directive, which occurred in formal arenas.

Why German and French Managers Have Different Preferences

All managers are acutely interested in the rules governing takeovers, but the managerial preference for takeovers varies across countries. If protection against takeovers were costless, all managers would want it – takeover protection is tantamount to a job protection law for senior managers. National managerial organizations always push for more takeover protection, when they can get it without giving up anything else. Yet managers also want to create the conditions that make their companies, and thereby themselves, most successful. Takeover protections may help company strategies or may harm them, depending on what managers have to trade away to get protection. To understand how managers think about the relative merits of takeover protection, I follow Gourevitch and Shinn[6] in focusing on *autonomy* as the primary criterion managers use in establishing their political preferences over regimes of corporate control. In coordinated market economies, where companies are engaged in a variety of networks with other firms and stakeholders, increasing the power of minority shareholders is often a way for managers to achieve greater autonomy vis-à-vis these existing stakeholders.

Faced with the deepening of global financial markets in the 1990s, managers in coordinated economies had two choices. They could embrace an influx of foreign capital, lowering the cost of borrowing and opening their access to other markets, but also exposing these companies to demands for internal reform from foreign investors. Or they could maintain barriers to active markets for corporate control, and thus the luxury of the longer term perspective associated with them, at the price of scaring away certain types of foreign investors. The first option was the choice made by managers in France. Yves Tiberghien

[6] Gourevitch and Shinn (2005).

has labeled this choice the "golden bargain."[7] Under the terms of the golden bargain, managers accept the higher level of takeover risk associated with more active markets of corporate control and the short-term perspective associated with reliance on quarterly earnings reports.[8] In exchange, access to the capital of foreign investors enables companies to pursue strategies of rapid internal reorganization or external growth.

The embrace of foreign investors in French companies required that managers be able to respond to calls from these investors for increasing shareholder value. According to Michel Goyer and Bob Hancké, French managers were able to make this choice because they faced no obstacle from organized labor within the firm and because it suited the core competencies developed by large French firms.

> [T]he lack of institutionalized labor influence within the firm provided management with ample room to introduce shareholder value practices inside French firms. Moreover . . . it complemented the organizational frameworks of large corporations. The concentration of power at the top of the firm, the ability to rapidly develop new strategic initiatives, the innovative design of products based on scientific research, and the virtual exclusion of labor from the corporate decision-making process characterize the business strategy of [French] large firms.[9]

French works councils are weak, so they lacked the power to impose costs on managers who unilaterally renegotiated contracts, as is sometimes demanded by investors seeking maximal returns. Thus, French managers could afford to allow a greater role for institutional investors, because managers possessed the power at the firm level to renegotiate or abrogate contracts if short-term market demands required it.[10]

German managers rejected the golden bargain in the 1990s, primarily because works councils in Germany retained a legislatively enshrined capacity for firm-level contestation.[11] The fact of works council power raises the potential cost of trying to reorganize through downsizing, as workers have formal representation and the capacity to challenge managerial strategies in court. Thus, the sort of radical reorganization associated with hostile takeovers faces an entrenched force for the representation of employee interests. Given that German managers are unlikely to be able to increase their autonomy at the expense of works councils, this creates an incentive for them to ensure that institutional investors do not encroach further on managerial autonomy. As Michel Goyer has shown, this choice influences the sorts of funds likely to invest in a given economy. U.S. hedge and mutual funds, which like to take large stakes in companies and to exert influence over managerial strategy, shy

7 Tiberghien (2007).
8 Albert (1993).
9 Goyer and Hancké (2005: 185–186).
10 Goyer (2002).
11 Streeck (1995), Jackson et al. (2005).

away from the German market because of their limited ability to control companies, while they have moved aggressively into the French market.[12]

In addition to this fundamental difference in the strength of labor at the firm level, two other considerations also influenced the formation and expression of managerial preferences in France and Germany. First, with respect to company cross-shareholdings, concentrated ownership in Germany has a strategic logic, not merely a logic of takeover defense. The French hard core networks were built with political intent as the state privatized in the mid-1980s, with the aim of ensuring privatized companies did not fall into foreign hands.[13] German concentrated ownership has grown instead from family ownership and from firms taking an ownership stake in companies with which they have a long-term contracting relationship.[14] So while the assets tied up in the ownership of other companies had an opportunity cost in both countries, those costs were probably higher in Germany than in France.

Second, features of the political organizations of managers differed between the two countries. The foregoing description of the underlying interests of managers of large firms in France and Germany obscures the heterogeneity of views that existed among firms within each of these countries. Managerial interest associations are not only interest groups, but also forums for managerial conflict about the appropriate set of policies to strengthen national companies in international competition. We expect factional conflict within managerial organizations, just as we expect to observe factional conflict in political parties. As managerial preferences change within a country, we expect to see a competition of ideas play out through employers' associations, which represent the collective political interests of business.

These conflicts looked different in France and in Germany. French managerial associations were divided by debates about the commitment to the stakeholder model of capitalism. A faction of neoliberal managers took control of the peak associations in the late 1990s, and they shifted these organizations toward a much deeper embrace of foreign ownership and liberalization.[15] These same managers also led the destruction of the preexisting institutions that guaranteed the passivity of the French market for corporate control. In Germany, there

[12] Goyer (2006b, forthcoming). Works councils are not only a constraint on managerial strategies. Cooperation with the works council can be an asset in international competition. In German large firms, where works councils are represented on the supervisory board, there is great incentive for companies to negotiate major strategies with employee representatives. The presence of organized works councils at company level is therefore another resource for pursuing long-term strategies based on inter- and intra-firm cooperation (Hall and Soskice 2001). The role of works councils in German companies is reinforced by product market strategies that depend on extensive inter-firm cooperation. Hostile takeovers threaten long-term relationships that exist among firms with cospecific asset investments, just as they can challenge production methods that depend on delegating substantial autonomy to workers on the shop floor (Goyer 2006a, Börsch 2007).

[13] Schmidt (1996), Garrigues (2002).

[14] Goergen et al. (2004), Börsch (2007).

[15] Garrigues (2002).

were also divisions within managerial associations. But structural features of the German associations helped ensure the dominance of those managers who wanted to preserve takeover protections. The German peak association, the BDI, was dominated by industrial managers, who regarded prohibitions on the rights of managers to defend their companies during hostile takeovers as unacceptable. The BDI excludes many of the financial sector companies that favored the liberalization of German markets for corporate control.[16] And while German banks and insurers liberalized, the giants of German industry successfully maintained institutions of protection. Thus, the organizational characteristics of the BDI accentuated the influence of those managers in Germany who favored protections of the passive market for corporate control.

Salience and the Politics of Informal Institutions

Issues of low political salience are structurally more likely than issues of high political salience to be governed through informal institutions – that is, rules made by private actors outside of Parliament. When an issue area achieves sustained political salience, this means that voters consider it an important area, relative to the other political issues they care about. This creates a powerful incentive for politicians to develop the tools to intervene, so that they can be seen to respond to the concerns of voters. If business is seen to have captured a high salience policy domain characterized by informal governance, public opinion will push governments to intervene more heavily. Just as a monopoly distorts a product market, a monopoly of economic power invalidates the possibility for free contracting, which is the general condition under which democratic governments delegate to informal governance. One of the few ways for such issues to escape the reach of political regulation is when governments impose limits on themselves, constitutionally, to govern an issue area. This is the case, for example, in some European countries in the area of wage bargaining, where direct negotiation between representatives of workers and employers is often protected from direct state intervention.[17] Absent such government self-restraint, the combination of informal governance with high political salience is unusual.

By contrast, informal institutions in areas of low political salience are common. For political scientists, who thrill to the spectacle of a close vote in a legislature, informal institutions are hard to digest. Where is the political action in a set of agreements that no legislature or regulatory agency has ratified? Given this fixation on formal rule making, many eminent scholars have followed the intellectual lead of Peter Gourevitch in assuming that all informal institutions, to the extent that they are political, must have roots in Parliament:

[16] Callaghan (2004).

[17] In Germany this principle is called *Tarifautonomie*, and it gives unions and employers' associations the right to negotiate wages without state intervention.

TABLE 3.1. *Formality and Salience in Issue Domains*

	Informal Rules Primary	**Formal Rules Primary**
High Salience	Wage Bargaining Rules	Pension System
Low Salience	Takeover Protection	Vocational Training

"The regulatory system sustains the micro-institutional patterns of the economy. The regulatory systems are sustained, or changed, by choices made in a political process by policymakers."[18] This assumption is contradicted by many sociological studies of corporate governance, which emphasize that shared ideas among relevant market actors, rather than legal changes pushed through legislatures, determine the extent to which important practices of corporate governance actually change.[19] A political approach to institutional change that collapses informal institutions into the struggles we can see in Parliament thus risks obscuring some of the central political battles of modern capitalism.

Informal institutions are rules established outside legislative or regulatory arenas by nonstate actors. When an issue area is governed primarily by informal institutions, two aspects of informal governance further reinforce the advantageous situation of institutional incumbents. First, the incumbents do not have to convince politicians or regulators to decide in their favor, through lobbying or other exercises of expertise. They themselves are the decisionmakers, and they only need to ensure that state policymakers do not decide to intervene. This is a different arena than formal institutions, where state intervention is a given, and managers try to influence the direction of that decision. In other words, if an existing set of nonstate institutions already effectively governs an issue area, politicians must decide *whether* to intervene before deciding *how* they would change the rules. Second, in informal institutions those who oppose the incumbents lack guaranteed institutional conduits for their input. The question of institutional change and stability is not, "can we get this change past our opponents in Parliament?" Opponents in the legislature have no opportunity to rally others to their cause because there is no legislative or regulatory hearing process that structures political contestation over rules. Informal institutions generally have far narrower, less public forums for participation in the process of rule change than do formal institutions.

Table 3.1 represents the potential combinations of high and low salience issues with those governed primarily by formal and informal rules. Pension systems and vocational training are governed primarily through formal institutions: pensions because they are a politically important regime of state-supervised redistribution, and vocational training because school-based education is overseen by the state in every advanced industrial country, even those (such as Germany) where companies play a significant role in the firm-based

18 Gourevitch (1996: 241); see also Streeck and Thelen (2005).
19 Hirsch (1986), Davis and Greve (1997), Schneper and Guillén (2004).

components of apprenticeship training. The rules governing takeover protection and wage bargaining are primarily decided in informal arenas of decision making in many advanced capitalist countries, including France.[20]

Recall that the political salience of an issue refers to its importance to the average voter, relative to other issues. As noted in Chapter 1, press coverage from national newspapers is a robust indicator of political salience.[21] Figure 3.1 uses the press coverage received by these four policy areas as an indicator of their political salience.[22] The measures are based on LexisNexis searches of the original-language editions of the two most important general-interest newspapers in France: *Le Monde*, associated with the center-left, and *Le Figaro*, associated with the center-right. What do we learn about the political salience of takeover protection by looking at variations in press coverage over time?

From 1996 to 2007, takeover protection was an issue of very low political salience in France, averaging fewer than thirty articles per year combined in *Le Monde* and *Le Figaro*. If there were only one article *per month* on a subject in each of the two general newspapers, that would be equal to twenty-four articles per year. During this period, the systems governing pensions (formal rules) and employer-employee bargaining (informal rules) both received sustained press attention: 126 articles per year for pensions and 142 articles per year for wage

[20] The unusual regime of Dutch takeover protection, which is discussed in Chapter 4, is governed primarily by formal rules, which is what makes it so unusual among the coordinated market economies. Wage bargaining systems vary across the advanced capitalist countries in the balance of formal and informal institutionalization. They combine formally regulated areas, such as determination of the minimum wage, with recognitions of the right of social partners to negotiate outcomes, as in wage setting. However, in the countries studied in this book, wage setting is an activity that takes place between employers' associations and unions with the surveillance but not active involvement of the state. For this reason I designate it as primarily informal.

[21] The largest problem with using press coverage to measure salience is the assumption that newspapers cover issues in proportion to how much voters care about them. Absent better data, though, such a measure is a decent proxy (see Epstein and Segal 2000, who compare different measures of salience and come down in favor of newspaper coverage).

[22] In an attempt to create institutional categories that were as conceptually comparable as possible, the search relied on terms that would capture articles dealing with rules of governance in each issue area. The search terms used in Lexis-Nexis were the following (French original is followed by bracketed English translation):

Takeover Protection: "anti-OPA" [anti-takeover] OR (protection W/30 OPA) OR (protéger [to protect] W/30 OPA) [the construction w/30 OPA means any article containing the word protection within 30 words distance of the abbreviation OPA (takeover)].

Vocational Training: "formation par/en/d'alternance" [training by/through/of school/work combination] OR "contrats de qualification" [qualification contracts] OR "contrats d'apprentissage" [apprenticeship contracts].

Bargaining Rules: "accords de branches" [sectoral negotiated agreements] OR "accords collectives" [collectively negotiated agreements] OR "conventions collectives" [collective agreements].

Pension System: "régimes de retraite" [pension rules] OR "régimes spéciaux" [special pension rules] AND "retraites" [retirement] at least 5 times.

https://doi.org/10.1017/CBO9780511760716.004 Published online by Cambridge University Press

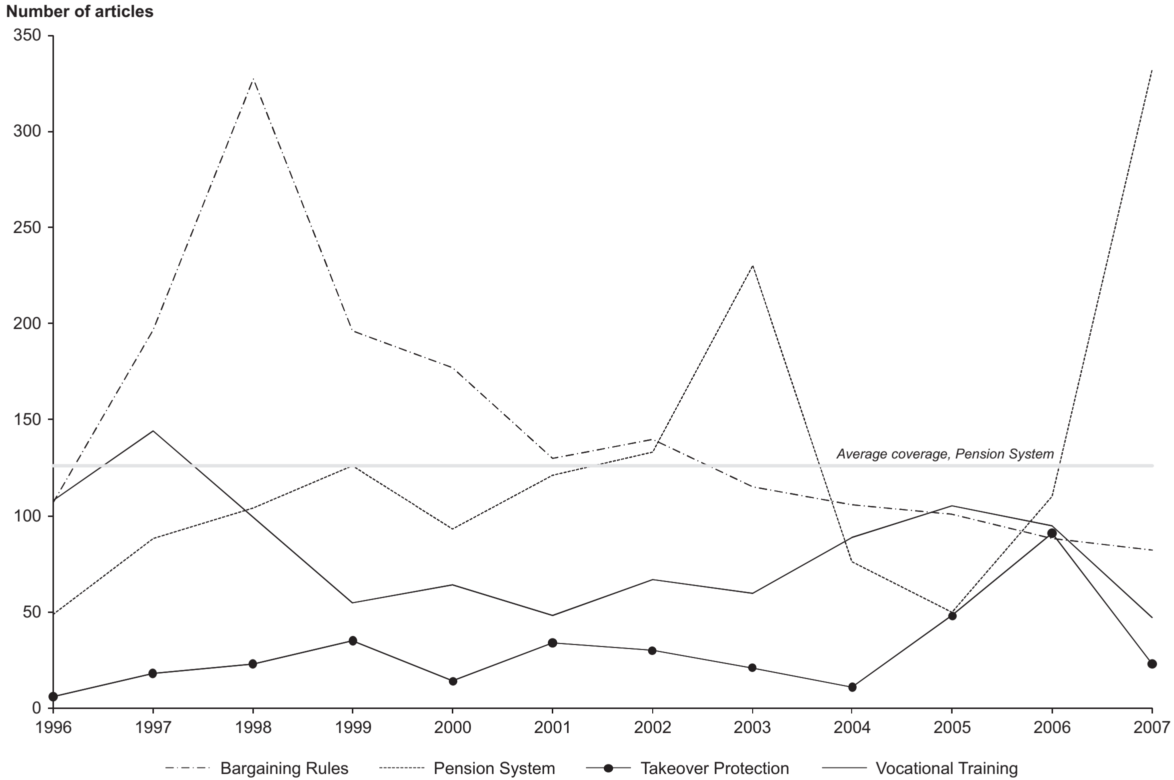

FIGURE 3.1. Political Salience of Issue Areas in France, 1996–2007
Source: LexisNexis search of *Le Monde* and *Le Figaro*. Definition of the search terms used for the issue areas is provided in footnote 22.
Note: The gray horizontal line shows the average number of articles per year published on the subject of the pension system, which is the less covered of the two high-salience issue areas depicted in this figure. This is one rough indicator of a minimal level of media coverage we might classify as being associated with an issue of high political salience.

bargaining. In the realm of economic policy, the dominant themes in the French press during this period were the changes to bargaining rules at the firm-level from 1997 to 2000, and the issues surrounding pension reform after the election of a government of the right in 2002. Vocational training was less salient than either one of these, garnering only eighty-two articles per year on average, which was still almost triple the average press coverage received by takeover protection.

How do we know high salience when we see it? Baseball players and fans often refer to the "Mendoza line" when they talk about a minimal level of batting competence. Mario Mendoza, a shortstop for the Pittsburgh Pirates, played tremendous defense but had limited offensive talents. His batting average – the ratio of hits to the number of at-bats – frequently fell below .200, or twenty percent. Players whose batting average does not reach the Mendoza line of .200, no matter how sparkling their defense, are not considered good enough to play major league baseball.[23] Given that every country has its own distinct political discourse and structure of print media, there is no obvious numerical equivalent of the "Mendoza line" in terms of the number of articles that must appear on a given subject for it to be considered of "high" political salience. In this chapter and the two that follow it, I try nevertheless to create a "Mendoza line" of political salience for each country, based on the relative frequency with which economic policy areas are discussed in the press. In France, the Netherlands, and Japan, bargaining rules and the pension system tend to receive much higher press coverage than do the less salient issues of vocational training or takeover protection. For each of these countries, I take the less well-covered of these high salience issues (i.e., whichever of the two that has fewer newspaper articles written about it), and use the average annual number of articles on that subject in a given country as the lower bound on when we might consider an issue of high salience. This is a very crude way of establishing where the threshold of "high salience" stands. Yet, it provides a useful point of reference for considering how coverage of takeover protection compares to other issues that are covered by the press and of concern to voters. This Mendoza line of political salience in France is represented by the gray horizontal bar in Figure 3.1.

Over this time period, takeover protection *never* reached the average level of coverage achieved by the pension system in France. When looking at the trends in comparative political salience in Figure 3.1, there is only one year – 2006 – when the issue of takeover protection received the same approximate level of coverage as the other subject areas. In March, 2006 the EU takeover directive was transposed into French law. As we will see later in this chapter, the spike in press coverage of this issue was driven both by coverage of parliamentary hearings on the new takeover law and by the attempt of the Indian steel company Mittal Steel to acquire the partly French steel company Arcelor. In terms

[23] Pitchers are excluded from this rule, as their value is derived almost entirely from their pitching (defense), not their batting (offense).

of institutional change, the dissolution of the *noyaux durs* was a much more significant institutional development than the transposition of the EU directive. But the fact is that the breakdown of the *noyaux durs* essentially took place out of the public eye. Major general interest newspapers in France ran fewer than one article per month on the topic of takeover protection from 1997 to 2000. French managers needed to convince neither politicians nor the broader public to support the breakdown of the old system of cross-shareholding. This transformation thus took place below the radar of politicians and the public, a process to which we turn now.

Informal Institutional Change at the Domestic Level: France and Germany in the 1990s[24]

Where institutions depend on intercompany coordination, what managers believe other managers believe may be as important to processes of institutional change as are legal reforms aimed at changing the rules of corporate control. As we saw in Chapter 2, patient capital in France was supported by concentrated owners combined with a set of strategic shareholders – the so-called *noyaux durs* (hard core) networks. One of those networks was centered on the bank Société Générale, the other on the Banque Nationale de Paris (BNP). At the beginning of the 1990s, many of the managers of large firms in the two networks shared the view that the future of French business had two components: the support of stable shareholders and their development as global, European companies.[25] In Bob Hancké's words, the system of stable shareholding "offered large-firm management the autonomy to restructure with a long-term perspective in mind, that is, without falling prey to the short-term profitability criteria that the capital markets imposed. . . ."[26] Large French firms had used takeover protection as an external shield while they reorganized their internal structure and their external relationships with suppliers.

This reorganization had made French firms much more profitable, and it had both weakened firm-level works councils and reduced the labor costs of these firms.[27] By the mid-1990s, the senior managers of French firms viewed the expansion of global financial markets as both an opportunity and a threat. Old-style conglomerates would have to reorganize around their core competencies in order to attract the attention of international markets.[28] But if they were to compete at the scale of European and global markets, they also perceived a need to expand. Claude Bébéar, the chief executive of the insurance company

[24] This section draws on Culpepper (2005).
[25] Schmidt (1996), Levy (1999).
[26] Hancké (2002: 33).
[27] Employee compensation represented seventy-three percent of the value added by French non-financial firms in 1982, a figure which had dropped to sixty-four percent by 1989 (O'Sullivan 2007: 417).
[28] Goyer (2006a), Morin (1998).

AXA, pithily summarized the imperatives facing French managers in 1996: "either find a niche or get big and fight."[29]

The business objectives of focusing on core competencies and of expanding internationally were both facilitated by the weakness of labor at the firm level in France. Employees often favor a conglomerate structure, which works in several different product markets, as strong divisions of the company can subsidize weaker divisions. Moreover, a focus on core competencies in practice often involves substantial layoffs, and employees are well aware of this threat.[30] Where employees have the power to block this move, they will. But in France they did not, and in the mid-1990s many large firms began to shift their organizational strategy toward one of focusing on core business. Michel Goyer has shown that in 1990, seventy-seven percent of French large firms still had a conglomerate structure, but that by 1998 half of the large firms in France were focused in a single or dominant niche business.[31] One key part of expanding around core competencies involved strategies of external growth – in other words, buying other companies that made related goods for different markets. As Mary O'Sullivan's research has demonstrated, French managers were by the 1990s increasingly obsessed with how to expand through international acquisitions.[32] This, in turn, required substantial capital, and it raised the cost that many managers perceived of sinking investments in the protection of other companies through the *noyaux durs*.

With French big business focusing increasingly on core competencies and international expansion, the largest French firms collectively began to look more like the AXA of Claude Bébéar. Bébéar had succeeded as an entrepreneur by developing a regional insurance company into a global heavyweight by focusing solely on a single core competency: insurance.[33] Never a member of the state-trained managerial elite that had supported the system of the *noyaux durs*, Bébéar had long professed an unwillingness to engage in the long-term strategic shareholding favored by the establishment.[34] The structural change underway in French big business in the mid-1990s began to predispose more CEOs to adopt the neoliberal policy preferences of Claude Bébéar.

The tipping point in French business came in 1997, triggered by AXA's takeover of the insurance company UAP.[35] AXA's purchase of UAP meant that the company had purchased a place at the heart of the cross-shareholding network. Bébéar sent a public signal that AXA/UAP was abandoning the system of cross-shareholding in January 1997, saying that the company "had no intention of becoming the godfather of the French economy" and initiating a

29 O'Sullivan (2007: 422).
30 Goyer and Hancké (2005).
31 Goyer (2006a: 88).
32 O'Sullivan (2007).
33 Abescat and Lhaik (1999).
34 Schmidt (1996: 382), Garrigues (2002).
35 Morin (1998).

token drop in its holdings of BNP, the bank at the heart of one of the two shareholding networks.

AXA/UAP's defection provided a shock to other members of the network. Bébéar's announcement did not trigger an immediate selling of shares by other companies. Instead, it stimulated a set of discussions among other managers in the hard core networks about the effectiveness of cross-shareholding as takeover protection, and experimentation with alternative modes to construct a hard core of ownership. For example, two of the members of the BNP network – Suez and Lyonnaise des Eaux – merged in March 1997, establishing hard-core shareholders in Groupe Bruxelles Lambert and Crédit Agricole that replaced the eventual loss of AXA-UAP.[36] AXA itself did not actually make any major sales of its nonfinancial shares until the end of 1997 (when it sold its small holdings in Alcatel) and near the end of 1998 (when it dropped its holdings in Saint Gobain and Vivendi).[37] The major fall in shareholding in the second hard core network, which clustered around Société Générale, did not occur until 1999, as shown in Chapter 2. Yet Bébéar's statement is widely regarded as the moment the system broke down. Frédéric Lordon echoes the general sentiments of French businesspeople when he identifies AXA's takeover of UAP as "the shock . . . that overturn[ed] the organization of French capitalist control which, by stabilizing the ownership of capital, had in fact allowed for resistance against outside ownership. The bipolar structure [of French capitalism], essentially inherited from the days of Pompidou and built around the constellations of Suez and Paribas, found itself dismantled in a single blow."[38] The hard cores designed to protect French companies from hostile foreign takeovers were a dead letter by 2000.

Because the institution of stable shareholding was maintained privately and without legal support, there was no opportunity for nonmanagerial opponents of Bébéar's to rally opposition. In the formal political sphere, AXA's takeover of UAP took place the same year as the surprise election victory of a socialist/communist coalition government in 1997. The institutions of corporate

36 Vincent (2004).

37 AXA/UAP's combined shareholdings in nonfinancial companies in its network were all relatively minor (below five percent of their outstanding shares). As such, selling those shares alone would not have destabilized the existing network, absent selling by other shareholders. AXA/UAP's shares of financial companies were more substantial, as it held blocks larger than ten percent of the shares of both BNP and of Paribas. BNP merged with Paribas in 1999 (Vincent 2004).

38 Lordon (2000). It is important to note that AXA's move to sell blocks of shares in the hard cores was not unprecedented, at least for AXA. The year before it bought UAP, AXA had significantly reduced its holdings in two large French companies in the hard cores: Alcatel and Suez. That sale of shares had had no effect on the behavior of other companies at that time, because at that time AXA was not a central member of the cross-shareholding network. It was only when it bought UAP and threatened to liquidate its shareholdings in 1997 that the other companies in French shareholding networks began to respond. The actions of AXA/UAP led them to reevaluate the idea (and costs) of using cross-shareholding as mutual takeover protection.

control were not an issue in the campaign, and indeed the victorious socialist government had no position on the *noyaux durs*. In the economic sphere, the major question for the government was how to meet the macroeconomic criteria for European monetary union, the issue over which the election had been called.[39] In the social realm, the government's principal promise was to exhort the social partners to negotiate the conditions of a thirty-five-hour work week, which lies behind the extremely high salience of the issue of bargaining rules between 1997 and 2000 (Figure 3.1). The finance minister, Dominique Strauss-Kahn, thus had some latitude within the government, because the government did not come to power with a clear economic agenda.[40] As a member of Strauss-Kahn's cabinet summarized the issue to me, "Jospin and the Socialist Party had no precise idea about privatization.... And about the *noyaux durs*, I think that there was no precise idea of anybody, except Dominique Strauss-Kahn. Dominique Strauss-Kahn had very clear ideas."[41]

Strauss-Kahn's idea was that the state should act as a patient investor in strategic sectors to promote the development of European-wide industrial champions.[42] The finance minister thus shared the concern of French CEOs with how to get big enough to succeed in international competition. This is not surprising, because Strauss-Kahn was well-known for his proximity to the heads of French large firms. In 1993 he had founded the *Cercle de l'Industrie*, a group that brought together CEOs from the largest thirty-five companies in France. The group was both a lobbying organization, which tried to defend the interests of French companies in Brussels, and a collective thinktank for business leaders and politicians.[43] This cooperation with leaders of business did not come to an end when he was in government. As a member of his cabinet told me, "there were a few big CEOs, and they were the partners of Dominique Strauss-Kahn in thinking about strategy, industrial policy, etc."[44] Where Strauss-Kahn differed with some parts of the managerial establishment was in his view of what sort of ownership structure was necessary to sustain big European companies in which the state had a strategic interest: "He thought it was necessary to have a long-term ownership, or not necessarily a long-term owner, but a structure of the shareholder which could guarantee that in the long-term the company in those sectors could run a consistent and long-term strategy."[45]

Strauss-Kahn had a clear idea of the role of long-term ownership in the French economy, but the French government in 1997 possessed few instruments to act on this view. States have three main ways of favoring schemes

39 Interview with Pierre Duquesne, chief economic advisor to Prime Minister Lionel Jospin, July 16, 2009.

40 Tiberghien (2007).

41 Interview with cabinet member of Finance Minister Dominque Strauss-Kahn, July 16, 2009.

42 Tiberghien 2007: 76–81.

43 Garrigues (2002: 277).

44 Interview with cabinet member of Finance Minister Dominque Strauss-Kahn, July 16, 2009.

45 Ibid.

of long-term ownership: owning shares themselves; determining to whom they sell those shares if they privatize state-owned enterprises; or using laws to change the costs and benefits of those private actors who own shares. These are important levers of influence. Yet by the mid-1990s, France had reduced many of its public ownership stakes, thus weakening the possible impact of the first lever of influence. The second lever – choosing ownership when privatizing – is one that French governments had used in the 1980s to build up hard core ownership networks for privatized companies, which were also among the largest companies in the French economy. When it comes to the third lever, however, the power of public influence is indirect. The government had no tools beyond privatizing the companies that remained in state ownership, and it was largely on the sideline as the *noyaux durs* were dismantled. At the beginning of 1998, Strauss-Kahn commissioned a report on the potential public responses to the changes in the ownership structure of large French firms.[46] The report was authored by François Morin, a long-time scholar of French ownership holdings and a close personal friend of Prime Minister Lionel Jospin.[47] Morin's report bemoaned the loss of coordination, which AXA's steps to dissolve the ownership networks had signified. The change had resulted in a "brutal rupture" with past methods of securing patient capital, and the new system was one in which French companies were increasingly constrained by the "dominant strategic model" characteristic of Anglo-Saxon markets: a focus on core businesses, a break-up of conglomerates, and an immediate reallocation of capital away from unprofitable business.[48] This public lament, however, was the only action of the government. A member of Strauss-Kahn's cabinet told me that the report "was not used, it was just for writing things."[49]

Bébéar's takeover of UAP in 1997 was followed the next year by the conversion of the old employers' association, the CNPF, to the MEDEF, a name change that signaled the triumph of the neoliberal wing of the employers' movement.[50] In 1990, Bébéar had also supported the elevation of Denis Kessler to the head of the FFSA (Fédération Française des Sociétés d'Assurance). Kessler would be the intellectual leader of the MEDEF's attempt to impose a new, more liberal set of social rules on the bargaining among French social partners after 1997.[51] Although the MEDEF was a publicly prominent representative of French companies, the organization itself has often been challenged by internal divisions,

[46] Morin (1998).
[47] Interview with Pierre Duquesne, chief economic advisor to Prime Minister Lionel Jospin, July 16, 2009.
[48] Morin (1998: 16, 44).
[49] Interview with cabinet member of Finance Minister Dominique Strauss-Kahn, July 16, 2009.
[50] MEDEF stands for *Mouvement des Entreprises de France*, a name change that signaled the newly activist line pursued by the organization under the leadership of Ernest-Antoine Seillière and Denis Kessler. CNPF stood for *Conseil National du Patronat Français* (Garrigues 2002: 274).
[51] Abescat and Lhaik (1999), Garrigues (2002).

particularly those between large and small companies.[52] French large firms began to rely increasingly on the lobbying capacity of the association of large firms, the AFEP, which represents only the ninety largest companies in France.[53] As an advisor to Prime Minister Jospin told me, AFEP has "excellent technicians, in particular for laws under consideration.... They do not merely take general positions, they try to have legislators add their own amendments, like real lobbyists."[54] From the managerial camp, an interview subject in charge of lobbying for one of the big employer organizations reiterated the same point: "AFEP is not a think tank which does big economic studies. They talk to their companies. They look at what works and what doesn't, and they make concrete propositions."[55] In 1999, Bébéar succeeded in pushing his candidate for the presidency of AFEP to replace Jean-Louis Beffa.[56] In short, although Bébéar had steadfastly refused to be the godfather of a French capitalism symbolized by the *noyaux durs*, by 1999 he was the incontestable leader of French senior managers, and his neoliberal policy preferences were those defended by the major representative associations.

Why Mannesmann in Germany Was Not Like AXA/UAP in France

The process that followed the AXA takeover of UAP triggered institutional change in the French system of corporate control. Yet an event that was viewed by some observers as similarly momentous for the German system of corporate control – the takeover of Mannesmann by the British company Vodafone in 2000 – did not trigger a similar selloff of cross-shareholding in German capitalism, as demonstrated in Chapter 2.[57] Why not? AXA was, like many other French companies at the time, focused on its core competencies and on strategies of freeing up capital for international expansion. In contrast, Mannesmann was unusual in the German context. Its shares were highly dispersed, and sixty percent of its shares were held by foreign investors, with two-thirds of the foreign owners being British or American.[58] Neither its ownership structure, nor the identity of its owners, was of the sort that could provoke other managers at large German companies to rethink their strategies, because Mannesmann's ownership structure was typical of large American companies, not large German ones. AXA/UAP sat at the heart of French capitalism, and its management faced a dilemma that was common to senior managers in the French ownership network: was the cost of refocusing on core competencies through international expansion strategies worth foregoing the collective takeover defense value of the *noyaux durs*? Mannesmann, in contrast, was an outlier, and its takeover

52 Bunel (1995), Woll (2006).

53 Interview with MEDEF official, July 4, 2003; Abescat and Lhaik (1999).

54 Interview with Pierre Duquesne, chief economic advisor to Prime Minister Lionel Jospin, July 16, 2009.

55 Interview with senior official of French managerial association, July 16, 2009.

56 Abescat and Lhaik (1999).

57 Cf. Höpner and Jackson (2001).

58 Höpner and Jackson (2001: 25).

did not trigger a fundamental reevaluation of the system of stable ownership in Germany.

Unlike in France, works councils in Germany remained integral players in negotiating firm strategies through the legally protected institutions of codetermination.[59] One result of this continued firm-level strength is that the majority of large firms in Germany retained their conglomerate structure throughout the 1990s and beyond. In 2003, sixty-four percent of German large firms still had a divisional conglomerate structure, while only forty percent of French large firms did.[60] Indeed, when Vodafone announced its hostile takeover bid, the works council of Mannesmann particularly attacked the plan to end Mannesmann's conglomerate structure. Klaus Zwickel, the deputy chair of Mannesmann's supervisory board and also the president of the IG Metall union, denounced the deal on precisely these grounds.

> Mr. Zwickel said that Vodafone was interested only in cutting the "best fillet" out of Mannesmann – i.e., its extremely profitable mobile phones division. The other Mannesmann divisions would very likely be sold again and thereby the overall Mannesmann corporation would be disintegrated. The IG Metall president announced strong resistance to this scenario, which would threaten thousands of jobs and undermine the particular co-determination culture at Mannesmann.[61]

The production strategies of many German large firms, unlike those of their French counterparts, are organized around close cooperation of management with workers' representatives. As most German companies do not have the dispersed ownership of Mannesmann, managers and concentrated owners do not want to risk prolonged confrontations with empowered workers.[62]

What did happen in Germany during the second half of the 1990s was a split between the strategies of financial institutions and other nonfinancial corporations. German banks and insurers began to change their shareholding strategies, moving to become active players in European and global financial markets. The percentage of supervisory board representatives from financial firms fell continuously between 1996 and 1999, after having been stable (or even slightly increasing) earlier in the decade.[63] The number of substantial voting blocks of the top 100 German listed companies held by financial firms similarly decreased between 1993 and 2003.[64] However, the proportion of large blockholdings held by *non*financial firms remained stable over this period, and the proportion held by individuals and families – the largest set of blockholders in Germany – grew at a faster rate than the financial firm decrease. In other words, German banks and insurers began managing their assets more

[59] Jackson et al. (2005).
[60] Goyer (2006a).
[61] Schulten (1999).
[62] Goyer (2006a).
[63] Höpner (2003: 138).
[64] Wójcik (2003).

as portfolio holdings and less as strategic holdings, but German families and nonfinancial companies appear to have reaffirmed the value of patient capital as a way to blunt hostile takeovers.[65] The net effect was no change in the extent of patient capital.

This split between financial and nonfinancial companies failed to have important consequences for the institutions of patient capital in Germany because the core incumbents of the system – nonfinancial companies and the families controlling their shares – did not defect from them. This was important in the German context because there was a strong push in the formal institutional arena to challenge the system of stable shareholding. The Social Democratic coalition government of Gerhard Schröder, elected in 1998, was decidedly more hostile to institutions of patient capital than was the Socialist coalition elected in France one year earlier. Its most important policy instrument for liberalizing share ownership was the passage of a tax reform in 2000 that abolished the fifty percent capital gains tax for companies selling shares in other companies. This was a deliberate attempt by the government to use its policy tools to undermine the patient capital network among German large companies.[66] However, the informal institutions of protection held because a majority of German manufacturing firms continued to prefer the advantages of the system. A 2002 survey of managers at the large listed companies in Germany found that fifty-nine percent of those managers still had no plans to change their strategic holdings of the shares of other companies.[67]

The Schröder government's attack on stable shareholding created a backlash among managerial elites. At this juncture, the lobbying structure of German associations also revealed an important difference from those in France. The German employers' lobby, the BDI, did not incorporate the voice of financial institutions.[68] Those companies that had largely opted out of the system of patient capital – financial companies – were not important players in the German managerial lobbying organization. Thus, there was no dramatic reorientation of the political organizations of German managers that corresponded to the neoliberal shifts in the MEDEF and AFEP in France after 1997. The different orientations of the two groups, and the opposing demands they made on their governments, were virtually diametrically opposed in the debate over

[65] Höpner and Krempel (2003). German industrial companies appear to value controlling shareholding heavily, as their stakes are much larger than those held by banks: "the median size of blocks held by industrial firms is 70%, which is substantially larger than for both individuals and banks (18 and 15%, respectively). This finding suggests that firms, banks, and individuals have very different motives in holding voting blocks. Firms appear to value majority control, while individuals generally own only a minority block. We find further that industrial firms control the largest percentage (26%) of all officially listed shares" (Becht and Boehmer 2003: 13).

[66] In John Cioffi's words, the tax law was "animated entirely by corporate finance and governance concerns. The anticipated effects of the law were tax neutral" (Cioffi 2002: 379).

[67] Börsch (2007: 69).

[68] Callaghan (2004). BDI stands for Bundesverband der Deutschen Industrie, the Federation of German Industry.

formal, international regulation that would affect both France and Germany: the takeover directive of the European Union. It is to this formal political fight that we turn now.

Formal Institutional Change at the International Level: The EU Takeover Directive

We often think of formal political rules as being set at the level of the nation-state. International treaty commitments are also formal rules with consequences for domestic interest groups. In the European Union, which plays an active role in passing and policing common rules of market regulation for its member states, this is especially true. At the international level, national managerial lobbies are as interested in how the rules affect their foreign competitors as how they affect the domestic rules of competition. Helen Callaghan has called this a "constrain-thy-neighbor" effect.[69] This means that international treaty obligations, such as those in the EU, may be relatively more costly to competitor firms in some countries than in others. Managers will prefer rules that limit their competitors more than they limit themselves. And their domestic preferences for allowing institutions that impede hostile takeovers will depend in part on how the adoption of such regulations might affect companies in other countries. Managerial organizations are politically pragmatic, not ideologically consistent. They may prefer one set of institutions at a domestic level – those that make takeovers easier – while pushing their governments to shape international rules in ways that allow some measures of protection. But we also expect managers to be cognizant of the costs of maintaining domestic takeover protections if this allows other countries to maintain them as well.

The EU Takeover Directive ultimately failed in its attempt to harmonize takeover regulations across the countries of the European Union. Scholars take this failure as evidence that, in political conflicts between national models of capitalism and European harmonization, national economic interests continue to be the dominant line of cleavage.[70] In the course of negotiations over the directive, representatives of different European countries adopted a view that was more likely to reflect the preferences of national companies, and national managerial organizations, than the harmonizing imperative favored by the European Commission. In this section I will show that the positions taken by national governments were consistent with the views favored by national managerial organizations in France and in Germany.

Throughout the 1990s, the European Commission, which has responsibility for drafting legislation in the European Union, advocated a framework directive that would harmonize takeover regulations throughout the EU. After a long period of negotiation, the Council of Ministers approved the directive and submitted it to the EU Parliament for approval. There, opposition to the

69 Callaghan (forthcoming).
70 Callaghan and Höpner (2005), Clift (2007).

TABLE 3.2. *Voting in the European Parliament on the Takeover Directive, 2001*

	Yes (pro takeover directive) (percent)	**No (contra takeover directive) (percent)**
France	63	37
Germany	1	99

Source: Callaghan and Höpner (2005: 24). Numbers refer to the percentage of each country's delegation to the European Parliament which voted for (or against) the draft takeover directive in 2001. (In absolute numbers, the voting for EPs from France was 45 yes, 26 no, and in Germany 95 yes, 1 no.)

directive was led by the German Christian Democratic rapporteur for the bill, who argued that the directive would put German and European firms at a disadvantage relative to their potential U.S. competitors.[71] The directive was sent to a conciliation committee, which produced a new version of the directive and resubmitted it to the Parliament. On July 4, 2001, the directive vote failed to pass the European Parliament in a tie vote: 273–273, with twenty-two abstentions.[72]

The European Parliament consists of families of national parties that often vote together: the European People's Party brings together Christian Democratic and Conservative parties, while the Party of European Socialists includes most center-left parties. These two major party groups split down national lines in voting for the takeover directive in 2001. As shown in Table 3.2, two-thirds of French members of the European Parliament (MEPs) voted in favor of the directive, while only a single German MEP (from a delegation of ninety six) voted in favor.[73]

The leading lobbying organization of German business, the BDI, strongly opposed the takeover directive. German managers particularly objected to the neutrality clause (article 9), which would have required company directors and senior managers to maintain a neutral position in the face of a potential hostile takeover. One of the leaders of the management lobbying offensive against the takeover directive was Wendelin Wiedeking of Porsche, who observed that it was "grotesque to condemn the management board to neutrality during a takeover bid. It cannot be true that a manager should be forced to watch without recourse to help while his company is taken over.... Openness of the German economy, yes, but not at any price."[74] German managers also complained that the takeover directive was effectively discriminatory within Europe because it did not eliminate the double voting rights available in France

71 Cioffi (2002: 383–384).
72 Callaghan and Höpner (2005).
73 Eighty percent of French MEPs from the main center-left and center-right groups voted for the directive. Most of the "no" votes from French MEPs came from the Greens and the far left groups, which voted unanimously against the bill (Callaghan and Höpner 2005).
74 Callaghan (2004: 23).

or the trust office foundations available in the Netherlands.[75] While executives of some large German banks favored the directive, these banks are not represented by the BDI and remained a quiet voice in the discussion.[76] Though the German party of the left, the SPD, was divided on the issue, organized labor swung solidly behind the position advocated by managers.[77]

French managerial organizations, in contrast, favored the passage of the directive. The director general of the AFEP, the association of large French firms, claimed that the large majority of AFEP members favored passage of the takeover directive.[78] After the directive's defeat, AFEP pushed for a new directive as quickly as possible.[79] Daniel Bouton, the head of Société Générale, responded similarly when asked about the defeat of the directive: "any harmonized system would have been preferable to the current, non-harmonized system.... Let's not lose sight of the most important thing, and I am sure this is also the point of view of the MEDEF: the European construction has just run into a major defeat."[80] French companies had embarked in the late 1990s on an economic strategy predicated partly on growth through international expansion. The defeat of the takeover directive in 2001 appeared to close off options for French firms, which strongly favored such a measure.

French corporate leaders wanted to make takeovers in Europe easier, but they did not want to lose double-voting rights or voting pacts that helped protect some French managers from international challengers.[81] This is an example of the "constrain thy neighbor" political strategies observed by Callaghan.[82] This stance became a political issue as the German and French governments negotiated with other EU governments over the appropriate revisions to the takeover directive in the wake of its defeat in the EU Parliament. An expert commission proposed a new article, the breakthrough rule (article 11), which would have rendered all takeover protections invalid after a specified length of time, once an acquirer crossed a certain threshold of ownership. Germany refused to accept the breakthrough rule unless it also banned French double voting rights. The French government, following the preferences expressed by managerial associations, refused to allow double-voting rights to be affected by the breakthrough rule.[83] Faced with the Franco-German deadlock, the Council ultimately adopted a compromise version of the takeover directive that left open to member-states the choice of whether or not to incorporate the two controversial articles, on board neutrality (article 9) and the breakthrough rule (article 11). Twenty-one of the then twenty-five member-states ultimately opted

75 Cioffi (2002).
76 Callaghan (2004).
77 Cioffi (2002).
78 Mauduit (2001b).
79 Callaghan (2004: 25).
80 Mauduit (2001a).
81 CCIP (2002).
82 Callaghan (forthcoming).
83 Callaghan and Höpner (2005: 311).

out of article 11.[84] The European Union could not achieve a qualified majority behind harmonized takeover regulations, and the potential for opting out of its two central articles reflected a tacit admission that member-states would retain a diversity of national takeover protection regimes.

Formal Institutional Change at the Domestic Level: Adopting the Directive in France

In Germany, the government followed the preferred position of managerial organizations in opting out of articles 9 and 11 of the European Takeover Directive. In the Netherlands the neoliberal coalition government tried to incorporate article 11 against the wishes of managerial organizations, and it lost (see Chapter 4). This section analyzes the transposition of the takeover directive in France, where article 9 was incorporated directly and parts of article 11 were incorporated, but with the simultaneous creation of poison pill-like devices (the *bons Breton*) in 2006. Much of the political discussion in France actually revolved around article 12 – the reciprocity clause – which allowed firms under attack to use the same defenses allowed to the attacking firm, from whatever legal jurisdiction. The debate turned this way in France because the large French firms were interested not so much in domestic liberalization of takeover regulations – which they had already achieved through the dismantling of the *noyaux durs* – but in ensuring the opening of other markets for takeovers by French firms. The ultimate outcome, which Finance Minister Thierry Breton summarized as allowing French firms to compete "*à armes égales*" [with equal weapons] in the international economy, reflected the same line that Claude Bébéar had consistently advocated for French business.[85]

Unlike in the late 1990s, though, the debate did not take place within the informal context of institutions supported by managers. Instead, it took place in the formal legislative venues of French politics, where the directive's fate was debated and ratified. How did the conventional strengths of managers – the delegation of power to informal bodies favorable to business, lobbying expertise, and framing effects – come into play in the formal environment of the debate over the European directive? That is the subject of this section.

There were three significant coalitions involved in the discussions over transposition of the French takeover directive. The first group, which (following Gourevitch and Shinn) I call an investor coalition, united minority shareholder activists, led by Colette Neuville[86] and the few neoliberals in Dominique de Villepin's UMP government, such as the chairman of the finance committee

[84] Buck (2006).
[85] Clift (2009: 26).
[86] Colette Neuville was the president of the best-known minority shareholder group in France, ADAM (Association de Défense des Actionnaires Minoritaires: Minority Shareholders' Defense Association).

in the National Assembly, Hervé Novelli.[87] This investor coalition favored a straight transposition of the takeover directive, including articles 9 and 11, and the most limited interpretation of the reciprocity clause. At the opposite end of the spectrum from this group was the stakeholder coalition, which united the Socialist Party and the labor unions.[88] Members of the stakeholder coalition favored opting out of articles 9 and 11, which they viewed as neoliberal in inspiration. In between these two groups stood the managerial coalition. The managerial coalition had a powerful ally in government: Finance Minister Thierry Breton, who was ideologically close to Claude Bébéar and who as a CEO had belonged to Bébéar's exclusive managerial club, *Entreprise et Cité*. The managerial coalition wanted to transpose the takeover directive in a way that would open other markets to French firms. This group advocated an aggressive interpretation of the reciprocity clause (article 12), along with transposition of articles 9 and 11. Within the managerial coalition, there was disagreement over the extent of allowable defense mechanisms. Some managers of large firms insisted they needed no protection at all, other than their high share price, while the MEDEF and AFEP initially favored legal language that would allow managers to offer preferential terms to white knights in the case of a hostile bid. Neither the investor coalition nor the stakeholder coalition would have any impact on the contours of the law that transposed the European takeover directive. The stakes quickly turned into the relatively technical question of what sort of market-conforming measures could satisfy the Bébéar/Breton group of managers (which wanted no protections) and the MEDEF/AFEP group (which wanted the transposition to create some form of legal protection mechanisms for French companies in order to provide teeth to the reciprocity clause).

[87] Novelli was the leader of the reformers (les reformateurs), a group of more than 100 neoliberals within the principal center-right party (UMP), a group which also includes the former presidential candidate Alain Madelin. The current website of the reformers is http://lesreformateurs.com/blog/.

[88] Dominique de Villepin, the prime minister, had advocated a position of economic patriotism during the summer of 2005, when there were rumors that PepsiCo might acquire the French company Danone. There was, however, no apparent opposition to the transposition of the takeover directive within the center-right government, and no prominent politician of the right adopted the economic patriotism position during the debates over the directive as a reason to reject articles 9 and 11. The "economic patriotism" episode was almost entirely hot air. The government issued a decree with a list of strategic industries that could not be taken over without government approval, but after negotiations with the European Commission it failed even to be able to include Danone on this list. The one legislative product of the period was a law passed during the summer of 2005, which forced would-be acquirers to announce their intentions in the case of widely rumored takeovers. This law included the so-called Renault amendment, which required that any takeover of a French company must include a takeover of any foreign subsidiaries it controlled. At the time, Renault controlled Nissan, which had a market capitalization that was twice that of its French parent company, and was thus a very expensive prospect for a would-be acquirer. In the press analysis below, economic patriotism is included as a distinct category from stakeholder defense.

One strength of managerial associations under quiet politics is their involvement in working groups to which governments refer political decisions. Such a group was named by then-Finance Minister Nicolas Sarkozy to develop recommendations for how the French government should transpose the EU directive into French law.[89] The commission, called by the name of its leader Jean-François Lepetit, the former head of the market-regulating authority (COB), included one legal expert, one representative of the insurance companies, and one representative of listed companies. The latter role was filled by the CEO of Saint Gobain, Jean-Louis Beffa, a senior figure in the AFEP.[90] The commission excluded any union representation. In its report, the Lepetit Commission called for the following transposition:

- Article 9 (neutrality): Direct transposition
- Article 11 (breakthrough): Opt out of the restriction on shareholder's pacts, but accept measure calling for suspension of voting ceilings
- Article 12 (reciprocity): Adopt reciprocity clause, such that French companies attacked by companies outside France that have not adopted articles 9 and 11 can also suspend the restrictions of articles 9 and 11[91]

The bill as presented to the Senate in October 2005 followed the Lepetit report in every major detail, stressing the "*armes égales*" interpretation of reciprocity. The baseline proposal, including the major decisions on which member states had alternative possibilities, was determined by a private group composed of representatives of business and a market regulator.[92] The thrust of the transposition was to insist that France was open to full competition so long as foreign companies were equally available for takeover. Although the discursive point may seem minor, consider the difference between the trope adopted by French managers – equal weapons – and that stressed by Dutch managers in their national debate – a level playing field. As we shall see in the next chapter, Dutch employers used the language of the level playing field to emphasize the threat to the independence of Dutch firms. As *Le Monde* made clear for its readers, though, the French principle was one of opportunity, not threat: "The leaders of French companies have until now largely profited from a national law in favor of assailants. Numerous members of the CAC-40 built themselves out of stock-market battles. . . . Today, they tend to be predators."[93] Readers of the business paper *La Tribune* got the same message that economic patriotism was to be observed only in the breach, as "the philosophy of the text, of neo-liberal

[89] As finance minister, Sarkozy established the working group in November 2004. Once elected president of the ruling center-right party, the UMP, he resigned and was replaced as finance minister by Hervé Gaymard in November 2004. Gaymard, in turn, resigned almost immediately after a housing scandal in February 2005, when he was replaced as finance minister by Thierry Breton.

[90] Garrigues (2002).

[91] Lepetit (2005).

[92] Lepetit (2005).

[93] Ducourtieux (2005).

origin, [is] to effect 'multilateral disarmament' in the question of cross-border takeovers in the Union. Any sign of chauvinism would in any case be out of place at the time when France is the European league leader for cross-border acquisitions."[94]

The proposed bill thus entered the legislative process on the terms proposed by members of the managerial coalition. The investor coalition wanted to minimize the impact of the reciprocity clause, because its interest was in getting the best deal for shareholders, not in securing the most favorable conditions for French managers. By contrast, some members of the AFEP and MEDEF wanted to reinforce the reciprocity clause by establishing legally valid takeover protections that could be invoked in situations where foreign acquiring firms had some sort of protection.[95] This position was argued by the government's rapporteur for the takeover law, Etienne Blanc, in the National Assembly debate in December 2005. The problem facing the managerial coalition was that there was not unanimous support among managers for a measure that pre-identified a white knight to whom extra shares could be sold in the case of a takeover. The liberal members of the coalition, such as Finance Minister Breton, opposed such a measure. The internal division of the managerial coalition, between the Breton/Bébéar reformist wing and the Beffa traditionalist wing, opened the way for a procedural victory by the investor coalition, which was led by Hervé Novelli, who chaired the Finance Committee in the National Assembly. Novelli used an amendment to the bill in December 2005 to limit the conditions under which reciprocity could be invoked in the case of multiple bids.[96] If the December version of the bill represented the final version of the law, this would disconfirm the hypothesis that low salience politics always favors business because Novelli was able to move legislation in his direction when there was no press attention on this issue at all and the managerial coalition was internally divided.

It is at precisely this intermediate point in the law that the two other levers of business influence kicked in: lobbying strength and press framing. The MEDEF and the AFEP sent a joint letter complaining about the Novelli amendment to Finance Minister Breton in January 2006. The following month, the Senate reversed Novelli's amendment, reinstating the government's original language. The MEDEF and the AFEP also negotiated with Breton the adoption of a defense mechanism they could use when invoking the reciprocity principle. Breton was willing to countenance the creation of American-style poison pills,

[94] Raulot (2005).

[95] Recall that the reciprocity clause would allow target firms to use any defenses available to acquiring firms.

[96] At issue was the question of whether reciprocity could be invoked if there were multiple potential acquiring firms, some of which followed the neutrality and breakthrough rules, and some of which did not. The government's version allowed for the reciprocity clause to be invoked if any of the would-be acquirers were not governed by article 9. Novelli's amendment said that reciprocity was to be invoked only if *all* acquiring firms were not subject to article 9 (Raulot 2006).

https://doi.org/10.1017/CBO9780511760716.004 Published online by Cambridge University Press

known as *bons de souscription*, or as they became known, the *bons Breton*. The choice of the poison pill protection was in effect a compromise between Breton and the Bébéar group of liberal CEOs, who simply wanted to ensure the passage of articles 9 and 11, and the traditionalist wing of the MEDEF and AFEP, which had wanted the stronger protection of specified white knights. Frank Riboud, CEO of Danone, summarized the appeal of the compromise among managers: "the government's proposition seems to me to go in the right direction, giving French companies merely the same means of defense as their counterparts abroad, as in the United States, for example. It is also in the interest of the shareholders."[97]

The French press is seldom described as having either a probusiness or neoliberal bias. To assess the ability of the managerial coalition to derive advantage from press coverage in France, I created a sample of every quotation appearing in articles about takeover protection in 2005 and 2006 from four leading French newspapers (see Table 3.3 note for description of the coding procedure).[98] French managers favored the adoption of neoliberal rules. Yet they also faced a challenge from the investor coalition, which advocated even more neo-liberal rules, particularly opposing the adoption of poison pill legislation. To compare the weight of different actors in the tenor of press coverage, I coded quotations from all the articles in my sample into four different categories, corresponding to the three different coalitions as well as the position of economic patriotism associated with Dominique de Villepin. To distinguish between the neoliberal views of the investor coalition and the managerial coalition, the coding focused on the distinction between the market as a tool of company competition (managers) and the market as a tool of shareholder supremacy (investors). The view generally favored by managers was that competition through hostile takeovers was good for them, and the only defense they needed was a high share price. French managers did not emphasize the vulnerability of French firms, but instead their opportunities for growth through takeovers. Three months before Mittal's bid was announced, Arcelor's French CEO, Guy Dollé, was quoted in *Le Figaro* warning against state intervention in the hostile takeover market: "The protection of a company against hostile takeovers is the responsibility of management. It has to convince its shareholders that its strategy is the good one."[99] The CEO of Legrand, a large French company that specializes in electrical installations, summarized the view of takeovers in the press that was presented by many French managers

[97] Julien (2006).

[98] I coded individual quotations because they provide the most illustrative, and usually value-loaded, terminology within articles. Thus, the predominance of certain quotations provides the best cue of the tenor of a given article. In the coding for the Netherlands (see Chapter 4), which was performed first, entire articles were coded. In that group of articles, quotations from key actors were the key determinants of the overall tone adopted by individual articles.

[99] Bembaron and Martin (2005). Arcelor had been created in 2002 from the merger of French steel company Usinor with Spanish and Luxembourg steel companies. It was based in Luxembourg but continued to operate plants in France.

https://doi.org/10.1017/CBO9780511760716.004 Published online by Cambridge University Press

TABLE 3.3. *Frequency of Normative Viewpoints on the Market for Corporate Control in the French Press, 2005–2006*

Pro-Active Market for Corporate Control	Market Competition	37%
	Shareholder Supremacy	25%
Anti-Active Market for Corporate Control	Economic Patriotism	13%
	Stakeholder Defense	25%

Note: A LexisNexis search of articles in the area of takeover protection yielded 421 articles from 2005 and 2006 from *Le Monde, Le Figaro*, *Les Échos*, and *La Tribune* (the two major general interest newspapers plus the two newspapers focused on economic affairs in France). This table takes as a sample all quotations from nonstate actors that appeared in these articles; if multiple quotations appeared in an article, we coded each quotation separately. This led to a sample of 241 total quotations (many articles were short factual accounts and included no quotations from nonstate actors). Two research assistants, both of whom are native French speakers, independently coded the quotations in one of four categories (or in none of the above): Market Competition, Shareholder Supremacy, Economic Patriotism, and Stakeholder Defense (the coding protocol for this exercise is included as an appendix). The initial coding decisions were identical between the two coders for eighty-one percent of the quotations; the kappa intercoder score for these initial coding decisions is 0.74. In all cases of disagreement between the two coders, I coded the quotations independently. The three of us then decided the final coding together to ensure consistency of practice. We coded forty-nine quotations as Market Competition; thirty-four as Shareholder Supremacy; thirty-three as Stakeholder Defense; and eighteen as Economic Patriotism; the remaining quotations were coded none of the above (thus, the actual number of coded articles used for the table is 134). We coded as Economic Patriotism any quotation that characterized the takeovers as being a question of national or European-level interests, vis-à-vis either actors from other countries or the impersonal functioning of the market. We coded as Market Competition any quotation that characterized takeovers not as a threat for French (or European) firms, but as an opportunity for growth, or to quotations that noted that a high share price is the best defense against hostile takeover. We coded as Shareholder Supremacy any quotation that referred to the stakes in takeovers as affecting shareholder rights, equality of shareholders, shareholders as the ultimate owners of the firms, or transparency as a value for shareholders. We coded as Stakeholder Defense any quotation that characterized takeovers affecting a broader group than just shareholders, including employees, unions, long-term owners, customers, and local communities (but not the whole country, which we characterized instead as Economic Patriotism).

during the transposition debate. "Concerning hostile takeovers, I consider the best defense is to be outstanding and conquering. We are more an actor than a target in global consolidation."[100] This sort of view was coded as favoring Market Competition in takeovers.

Table 3.3 compares the use of Market Competition frames in press articles about takeover protection, in comparison with views associated with the investor coalition (Shareholder Supremacy), Stakeholder Defense, and Economic Patriotism. In the first half of 2006, takeover protection briefly became a relatively prominent issue in French politics, as depicted already in Figure 3.1. Although the overall number of quotations is small (241 over a two-year period), this table shows that, over the whole period, the viewpoint favored by the managerial coalition was the single most frequently evoked

[100] Amedeo and Bembaron (2006).

view of takeovers by journalists in the major French press. And, more broadly, views in favor of an active market for corporate control clearly exceeded those favoring a passive market for corporate control.[101]

Until the Novelli amendment passed in late-December 2005, the managerial coalition had largely achieved its aims in working directly with the government in drafting the takeover bill. From January to April, 2006 – a period when the managerial coalition succeeded in passing a version of the law very close to its ideal point and reversing Novelli's amendment – the competitive viewpoint espoused by managers continued to be the single most visible perspective featured in French press coverage, because the press relied heavily on managerial perspectives to convey these issues to the French public. Whether such coverage influenced anyone is difficult to demonstrate conclusively, but the messages in the press were at the very least consonant with the view of takeovers propounded by the managerial coalition.

The poison pill was a tool adopted against the objection of both the neoliberal coalition, which wanted no protections, and the stakeholder coalition, which wanted greater protections and opposed transposition of articles 9 and 11.[102] Shareholder activist Colette Neuville acidly asked: "this new procedure, is it not going to work especially to protect management?"[103] During the final debate over the bill in the National Assembly, the Socialist Party decried what Arnaud Montebourg dubbed the triumph of "government by shareholders." His party colleague, Eric Besson, argued similarly that "hostile takeovers cannot be decided by shareholders alone. This situation is unbalanced and harmful." Speaking on behalf of the government (and close to the view of large companies), Thierry Breton responded, "contrary to what certain people think, a takeover is not an act of war: it is that which has allowed most French companies to become global companies." Indeed, Breton's opening comments to the Assembly drew the parallels between French and American poison pill regulation: "this is an option known and used in countries like the United States, which cannot be accused of shackling the right of enterprise nor of injuring the interests of shareholders."[104]

101 Note that the coding procedure I used understates the total support in the French press for the market-competition framing of the Breton proposal because it limited the coding to quotations from nongovernmental actors. Research on the press and politics has shown that governments are likely to quote governmental decision makers especially heavily (Baum and Potter 2008), and I wanted to remove this effect in order to consider the weight of business versus other social actors (including even opposition political parties).

102 Novelli amended the bill to impose a two-thirds vote threshold for the *bons Breton* to be adopted, which was the threshold preferred by minority shareholders' organizations. The final version of the law accepted the two-thirds threshold, but then nullified that decision by allowing shareholders' meetings to use a simple majority vote to delegate the choice of whether or not to use the poison pill to the board of directors.

103 Lechantre (2006).

104 National Assembly debate, March 6, 2006. During the final debate on the bill in the French Senate, Senate rapporteur for the bill, Franco Marini, used the competitive trope to attack the stakeholder views expressed by socialist Senator François Marc: "Firms with French capital and French headquarters must not, obviously, be held back by the market in their attempts

Two points are worth underlining about the opposition of the Socialist Party in Parliament as leaders of the stakeholder coalition: first, it directly contradicts the claims of Cioffi and Höpner that the French "center-left tak[es] the side of shareholders against managers."[105] Instead, the French center-left pushed against shareholders *and* against managers, and it lost. Second, it is worth noting that the minority shareholders (on the antiprotection side) and the Socialist Party (on the proprotection side) exercised little influence on the final bill. The policy reached was a compromise between two factions of management, and available evidence suggests that the outcome would have been the same in the absence of both minority shareholder activists and the Socialist Party. There was no rush by French companies to adopt poison pill protection after the measure was adopted. The spike in "market competition" quotations in April 2006, shown in Figure 3.2, was generally a product of French company managers announcing they did not need the poison pill protection.[106] Poison pills were adopted as a way to give teeth to the reciprocity clause, not to shield French companies from takeover, any more than American companies with poison pills are shielded from takeovers. It was a compromise premised on the importance of hostile takeovers as a tool for French companies in their attempt to compete globally.

Conclusion

This chapter has illuminated two aspects of the politics of takeover protection. First, where institutions are informal, we should look at the interests of institutional incumbents to understand why institutions change or remain stable. Institutional change in such contexts is unlikely to be driven by governmental action, but by the preferences of institutional incumbents. In other words, where managers are in charge of systems of patient capital, the political stake lies in understanding how they define their interests in those institutions, not in the posturing of politicians or the clamoring of shareholder groups.

Second, where institutional governance moves into the domain of formal legislation, managers will rely heavily on their advantages in lobbying capacity, their role in informal law-writing bodies, and their ability to influence press coverage. In both the French and the German cases, the position of national governments hewed closely to the line pushed by national managerial organizations. In the German case, this forced Gerhard Schröder to change his views substantially and surprised his EU negotiating partners, who had thought they had a deal on the takeover directive in 2001.[107] When it came to national transposition of the directive in the French case, the government allowed an

at external growth. The narrow vision put forward by Mr. Marc would have precisely the consequence of handicapping them in their external growth operations" (Senate final reading, March 23, 2006).

105 Cioffi and Höpner (2006: 470).

106 As of June 2008, only seven firms in the CAC-40 had adopted poison pills.

107 Cioffi (2002: 383).

informal body sympathetic to large companies to develop the key elements of the French transposition of the directive. This is especially noteworthy given the temporal conjuncture: the Danone case in July 2005 and the Mittal/Arcelor affair in early 2006 had both provoked governmental calls for economic patriotism. In practice, the political posturing was toothless. As the press analysis in the previous section showed, the framing wars in discussions of takeover protection were dominated by those highlighting France's interest in neo-liberal takeover laws rather than those favoring economic patriotism. The passage of that law, with American style poison pills, confirmed the triumph of the aggressively liberal stance that Claude Bébéar had favored in pushing for the breakdown of the *noyaux durs* in the late 1990s.

France and Germany made different institutional choices during this period because the interests of managers of large firms in the two countries diverged. As Michel Goyer and Bob Hancké have shown, the different preferences of French and German managers were a product of the different role of labor at the firm-level in the two countries. During the 1980s, French large companies had restructured and undermined the role of works councils.[108] This restructuring had taken place behind the protective institutions of concentrated ownership and cross-shareholding networks, which large company managers had favored. As French companies emerged from this restructuring process in the 1990s, though, their predominant concerns were how to get big enough to compete on international markets and how to focus on core competencies.[109] These were priorities that increasingly inclined French companies toward reliance on international capital markets, which favored company deconcentration. French labor, meanwhile, was in no position to oppose this move. This is in contrast with Germany, where the power of works councils remained strong and statutorily protected. German managers are accountable to their blockholders and their works councils more than to small shareholders. Their primary goal was to maintain this autonomy vis-à-vis small shareholders and pension funds. When Mannesmann was taken over by Vodafone, there was no tipping effect at all – because Mannesmann was an unusual company by German standards. It already had dispersed shareholding. There was no political movement among German managers corresponding to the neoliberal tendency led by Claude Bébéar in France. For this reason, the Mannesmann takeover had no effect on the shareholding patterns of other German large firm.

In short, this chapter has argued that both informal and formal domains of hostile takeover protection were dominated by the views of managers in France and Germany between 1996 and 2007. Against a partisan analysis, this chapter has shown that left parties did not have a consistent view about the desirability of takeover protection, nor did governments have tools to secure their preferred regimes of corporate control. The disinterest of the Socialist

[108] Hancké (2002).
[109] Goyer (2006a), O'Sullivan (2007).

Party allowed Finance Minister Dominique Strauss-Kahn to influence positions of the government, as Yves Tiberghien has argued, but Strauss-Kahn's views about the desirability of long-term ownership in strategic sectors did not translate into the government's ability to create long-term shareholding arrangements.[110] The major action in French shareholding was in the informal arena, and government has few effective tools in this sphere. The limits of governmental interest were especially clear in Germany, where the Red-Green coalition government did try to undo the strategic shareholding among German companies. The backlash this provoked, from the managerial lobby, caused Gerhard Schröder to reverse his position on takeover protection.[111] His switch of position at the European level led to the severe dilution of the EU takeover directive. Its two controversial articles – the neutrality rule and the breakthrough rule – were both made optional for national governments. German managers lobbied for opt-outs from these clauses. French managers, by contrast, viewed themselves as the likely winners from a more neo-liberal framework of European takeovers. They lobbied for a common directive at the EU level, and at the national level they fought (against the Socialist Party) for a transposition of article 9 and parts of article 11. To be sure, French managers were not pushing for shareholder supremacy. They defeated shareholder advocates and neoliberals in the National Assembly in adopting the possibility of poison pill protections.

The evidence is entirely consistent with an argument that highlights the power of interest groups, as coalitional theory does. Yet the role of electoral systems in stabilizing coalitional compromises, discussed by Gourevitch and Shinn, is not borne out by the Franco-German comparison. During the 1990s, both France and Germany had coalition governments of the left. But the composition of the government was immaterial to the changes in the informal sphere, as the preferences of institutional incumbents drove these processes. Governments have little incentive to intervene in the functioning of informal institutions of low structural salience, such as corporate control. And where they do try to intervene, as in Schröder's tax reform, they are likely to be unsuccessful without the active support of institutional incumbents. Where institutions are formal but an issue continues to have low salience, governments generally will take their cues from managerial interest groups about the course of legal reform. This dynamic operates at the international level, as in the case of debates over the EU takeover directive, but also in the domestic debate about the conditions of transposing the directive in France. French managers wanted and got terms of transposition that would favor their international growth strategies. The managerial alliance had a powerful ally in Finance Minister Breton, a once and future CEO himself. But, as we will see in the next chapter, managerial lobbying over the terms of law making does not depend on the good fortune of having a close ally of business in the government. Rather,

110 Tiberghien (2007).
111 Cioffi (2002).

https://doi.org/10.1017/CBO9780511760716.004 Published online by Cambridge University Press

when managers are able to mount both powerful lobbying initiatives and to influence the framing of press coverage of their political issues, they can find allies across the political spectrum. The power of coalitions should therefore be judged not only by the number of their voters, but by the effectiveness of the political weapons they can bring to a given political fight.

Appendix 3.1: Coding Scheme for French Newspapers, 2005–2006

There are four potential codes, as well as "none of the above":

Economic Nationalism
Market Competition
Shareholder Supremacy
Stakeholder Defense

Coding Protocol

Economic Nationalism: any quotation that characterized takeovers as being a question of national or European-level interests, vis-à-vis either actors from other countries or the impersonal functioning of the market.

> Examples:
> "It is only natural that the French government assures that certain firms remain in French hands."
>
> "A European-level fund for supporting national champions is not inconsistent with the market rules of the EU."
>
> "When national interests and market considerations diverge, the government will ultimately pursue national interests first."

Market Competition: any quotation that characterized takeovers not as a threat for French (or European) firms, but as an opportunity for growth, or to quotations that noted that a high share price is the best defense against hostile takeover.

> Examples:
> "The best defense against takeovers is maintaining a high share price."
>
> "French firms have been the beneficiaries of cross-border competition. We take over foreign firms more than they take over ours."
>
> "The best way to grow is in this economic environment is by buying other firms in other markets."

Shareholder Supremacy: any quotation that referred to the stakes in takeovers as affecting shareholder rights, the equality among shareholders (including minority shareholders), shareholders as the ultimate owners of the firms, or transparency as a value for shareholders.

Examples:
"Shareholders are the ultimate owners of the firm, and they should be able to decide which sort of takeover bid they wish to accept."

"Poison pills are made to protect managers, not shareholders. It is shareholders whose rights must ultimately come first."

"Transparent rules are the best guarantee that shareholders can monitor the managers, who are supposed to be working for them."

Determining the difference between market competition and shareholder supremacy: references to share value as a strategy (of management) for avoiding takeover are market competition; references to the shareholder decision process and selecting the highest offer per share for a takeover are shareholder supremacy.

Stakeholder Defense: any quotation that characterized takeovers affecting a broader group than just shareholders, including employees, unions, long-term owners of the firm, customers, and local communities (but not the whole country, which we characterized instead as Economic Nationalism).

Examples:
"A firm belongs not just to its shareholders, but to the workers."

"There is a group of owners who have demonstrated a commitment to the long-term strategy of the firm. Their view must carry a lot of weight in such decisions."

"The major criteria for evaluating the effect of a takeover must include the potential unemployment effects of a merger, which can have major ramifications for local communities."

"Savage liberalism is not the way we do things here. These bids should be negotiated with workers' representatives."

Examples of quotations that fit none of the above:

"The law seems like a good law overall."

"We are not interested in poison pills for our firms."

"This law is a minor question. We must stay focused on the major problems of the economy, not technical details."

"When one says the directive is neoliberal inspiration, this ignores the fact that the United Kingdom and the United States, both neoliberal countries, have very different rules for takeovers."