Standing at the Confluence: Institutional Emergence and the Case of the European Commission of the Danube

Yuan (Joanne) Yao
London School of Economics and Political Science (LSE)

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Abstract: This paper considers the critical juncture of the European Commission of the Danube in 1856 through the framework of historical institutionalism to understanding why and how international institutions are created at a given historical moment with a certain design. Historical methods are used to process trace the beginning of the international commission. This paper argues that actors framing the discourse of the river played an influential role in creating the international commission not only because they defined the problem and limited the menu of options. In addition, framing mattered because the gap between representation and reality locked the institution into a self-enforcing path.
Introduction

Like many crucial historical developments, not all international institutions start with fireworks and widespread recognition of their importance. Most have humble, everyday beginnings. It is not until after they have matured into something unique that historians and analysts look back to piece together the momentous beginnings of the institution. Established in 1856 in the aftermath of the Crimean War, the European Commission of the Danube had such a modest birth. It was not the first international river commission and not the first to establish the freedom of navigation and commerce on an international river; that honor belonged to the Rhine Commission. It was, however, the first international river commission that included non-riparian states — an international institution that included outside powers set up to govern a contested geographic space. Britain and France sat as members of the Commission without controlling any territory along the Danube. They made and enforced rules over a territory half of a continent away for the benefit of global commerce. Few at the time saw the Commission as anything beyond applying established norms to a new river.

By the 1920s and 1930s, however, historians and international legal scholars looked back to see the creation of the European Commission of the Danube as something novel and potentially replicable in the world’s progress towards global government — a new type of international institution where outside states sat on an international institution that exercised sovereignty-like powers over a geographic territory. There were even questions as to whether the Commission could be considered a state since it boasted powers — the ability to raise revenue and borrow money internationally, the right to institute and enforce regulations over a physical territory and even the right to raise its own flag — that mimicked those of a state (de Chazournes and Sands 1999:118). How did the Commission morph from the routine application of established international norm into an innovative international institution?

In the past three decades, new institutionalism has given international relations scholarship a new set of tools with which to analyze institutional creation and change. Despite inroads, fundamental questions remain concerning how and why international institutions are created with a certain design and why they continue down path-dependent courses in spite of changes in material conditions and incentives. If institutional creation is a critical juncture where paths are chosen that lock institutions into certain logics, then what forces shape the path chosen?
In the following analysis, I combine historical institutionalism’s insights into the importance of critical junctures with constructivist institutionalism’s concern with epistemic framing at moments of institutional decisions. While established norms and power relations shaped the creation the Commission, they do not fully explain the institutional innovation of the Danube Commission — the inclusion of non-riparian states in a permanent international institution. Rather, I argue that in the early 19th century actors with knowledge about the river — the merchants and diplomatic personnel who operated at the Danube delta — framed navigation barriers at the delta as an easy problem to solve but for Russian intransigence. In doing so, they shaped the menu of options available to international policymakers at the 1856 Paris Peace Conference. Further, I contend that it is the gap between these epistemic frame and the river’s realities that account for the locked-in path-dependent effects that subsequently took hold of the institution. The next section will briefly outline the paper’s engagement with historical and constructivist institutionalism, and the remainder of the paper will be an empirical study of the creation of the Danube Commission at Paris in 1856.

**Historical Institutionalism and Its Discontents**

In a ground-breaking 1984 article, March and Olsen launched a research agenda on the salience of institutions in understanding politics. This ‘new institutionalism’ focused on the autonomous role of institutions on political behavior and how inefficiencies in history shaped institutional design. In 1996, Hall and Taylor’s classic work outlined and compared three competing new institutionalism: historical, rational choice and sociological institutionalism. Since then, works in comparative politics have put forth other new institutionalisms including normative, empirical, feminist, discursive and constructivist institutionalism to name a few (Hay 2010; Mackay, Kenny and Chappell 2010; Peters 2012).

Of the three original new institutionalisms, the application of historical institutionalism to international relations scholarship beyond IPE has been strangely lacking (Fioretos 2011). Fioretos expresses surprise that scholars who struggle to understand why institutions are created with certain designs are not more engaged in historical institutionalism, which emphasizes founding moments, critical junctures, unintended consequences and incremental reforms. Fioretos contrasts historical institutionalism with rational choice conceptions of institutions as outlined by Duncan Snidal (2002) and Mark Pollack (2006) and sociological traditions of institutionalism in the works of James March and Johan Olsen (1989), Alexander Wendt (1992) and Finnemore and Sikkink (2001). However, rather than sitting in
contradiction to rational choice and social constructivism, historical institutionalism as a tradition offers a difference in emphasis in the study of institutional creation and evolution.

Undoubtedly, one force at work in international politics is that actors strive to achieve certain goals. Snidal describes rational choice as a “methodological approach that explains both individual and collective (social) outcomes in terms of individual goal-seeking under constraints” (2002, 74). The “goal-seeking individual,” Snidal argues, is not necessarily self-interested, power-seeking or materialistic. This individual, however, is instrumental and strategic in seeking to maximize a set of fixed preferences. Actors create institutions to benefit from the gains of cooperation, and once created, institutions become structural fixtures inherited from a previous game. Institutions as rules and procedures constrain the choices available to goal-seeking individuals and alter their behavior (Snidal 2002, 75; Hall and Taylor 1996: 943). Constructed interests and identities could be one of these exogenous institutional forces from a previous game that constrain the rational actor. Pierson and Skocpol aptly pinpoint the strengths and weaknesses of rational choice in maintaining that in these theories, “politics ends up sliced and frozen into artificial moments on the slide of a powerful but tightly focused microscope” (2002: 710).

To describe institutions as a systemic fact sidelines questions about why and how some institutions and institutional designs rather than others arise — questions Finnemore and Sikkink tackle from a sociological perspective. Their account of the norm cycle borrows from Cass Sustein and emphasizes the importance of norm entrepreneurs in driving normative and therefore institutional creation and change (Finnemore and Sikkink 1998, Sunstein 1997). The cycle begins with norm emergence as norm entrepreneurs champion a certain notion of appropriate behavior and persuade others to accept that notion. Then the norm spreads and cascades as more and more actors imitate one another through a process of socialization to adopt the norm. Finally, the norm is internalized and rarely challenged (Finnemore and Sikkink 1998). This account of normative evolution fits into sociological institutionalism’s emphasis on culture, symbols and social legitimacy as important factors in how an institution influences political outcomes. However, the group of dedicated norm entrepreneurs is only one element of the equation; other forces are at work to support, divert or foment institutional creation and change.
Historical institutionalism takes the analysis beyond rational choice theories that treat institutions as an exogenous factor and sociological institutionalism that either leaves out agency or focuses on norm entrepreneurs as the drivers of institutional creation. Instead, historical institutionalism highlights the theoretical space where structure and agency meet. Rather than treating institutions as an outcome of either rational or appropriateness calculations — as if institutions sprung up fully formed because actors willed it so or because structures deemed it so — historical institutionalism places time at the forefront of the process of institutional creation and change (Fioretos 2011, 373). Institutions are created, they evolve and they decay across the pages of history. Within that temporal process, past design, power relations and past normative structures interact with actors’ preferences and policy choices in a sequential, path-dependent, incremental process of creation and change.

Critical Junctures in Continuity and Change

Of the tools in historical institutionalism’s explanatory toolbox, this paper focuses on the founding of the European Commission of the Danube in 1856 as a critical junctures in the boarder institution of international river governance.

Critical junctures are points of departure for subsequent path-dependent processes. Capoccia and Kelemen’s often cited work describes critical junctures as “a situation in which structural influences on political action are significantly relaxed for a relatively short period” (2007: 341, 343). During this short period, dramatic changes are possible as the menu of choices expands and consequences of micro-level decisions become magnified. Mahoney echoes this definition by identifying two elements of critical junctures: increased range of institutional choices and the making of a choice (2000: 113). Antecedent macro-historical conditions matter as they shape the interests and identity of actors and place structural constraints on possible decisions. Once a decision is made at a critical juncture, alternative possibilities are closed off. Mahoney argues that if a decision does not restrict potential outcomes, and then the moment cannot be considered a critical juncture (2000: 113). At critical junctures, actors selects between all possible equilibria, and historical institutionalism predicts that the outcome is not always the most efficient or optimal equilibrium.

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1 Fioretos outlines the difference between historical institutionalism and historical sociology, as presented by Hobden and Hobson (2002) and Lawson (2006), which tends to focus on macro-level structural conditions and continuity even after supposed critical junctures (2008: 375). This analysis examines the combination of sweeping macro-level conditions with micro-level actions and decisions to create institutional continuity or change.
Critiques of using critical junctures to explain institutional change view the punctuated equilibrium model as artificial in its retrospective division of history between periods of stasis and dramatic change (Gorges 2001; Streeck and Thelen 2005; Hogan 2006). History, however, is much more complex, and mechanism for change and continuity operate at the same time, constantly pushing and pulling at institutions from different directions. Hogan argues for thinking about change and stability as entangled where there is “continuity in periods of upheaval, and gradual change in periods of peace that eventually become major transformation” (2006: 659). Layering, drift and conversion of institutional mechanism over time help account for incremental change within the historical institutionalism framework (Thelen 2004; Streeck and Thelen 2005). I agree that history is not divided into stark periods of change and continuity. However, to acknowledge that change and continuity are entwined forces is not to concede that all historical periods hold the same possibility for change. They do not. Forces for change may simmer with transformative potential during periods of stability, but outside shocks and internal crises as critical junctures push those forces to the forefront and relaxed structural conditions allow them the opportunity to create change.

The puzzle that critical junctures combined with path-dependency analysis attempts to solve is why the most efficient and sensible institutional design is not always adopted. In other words, what forces push institutions down one path versus another at critical junctures? Most historical institutionalist answers emphasize unintended consequences, accident, contingency and cumulative acts of human agency (Mahoney 2000; Crouch and Farrell 2004; Scott 2007; Morrison 2012). Most answers also assume ‘optimal’ and ‘suboptimal’ institutional paths can be objectively measured. Historical institutionalists use of counterfactuals combined with process-tracing to illuminate why other, more efficient potential equilibria were not adopted (Capoccia and Kelemen 2007: 343).

This paper, however, presents an additional dimension. Instead of focusing on the effect of contingency and chance, the analysis will focus on the epistemic role of international actors as path-shaping forces at critical junctures. Hence, agency and incremental change matter, but they matter through a political process of meaning and knowledge construction rather than by virtue of accident. In the context of international rivers, by making value-laden knowledge claims about the physical geography of the river and moral arguments about the absolute gains of cooperative management, actors influenced international decision-making at critical junctures by shaping the menu of choices and pushing actors towards certain choices.
The Constructivist Institutionalism Critique

Historical institutionalism as a framework faces a number of unresolved challenges. Hall and Taylor charge historical institutionalism with carelessness in analyzing the relationship between institutions and behavior (1996: 950). Daniel Nexon takes Fioretos to task for an emphasis on micro-foundations rooted in prospect theory and behavioral psychology rather than engaging with midrange explanatory tools such as context, embeddedness and temporality (2012). In discussing the global cotton trade, Amy Quark contends that historical institutionalism’s lack of attention to power rivalries and situational power limits the theory’s explanatory capacity (2013: 9–11). In their call for more scholarship on constructivist and discursive institutionalism, Colin Hay and Vivian Schmidt criticize historical institutionalism for its inability to provide a convincing account of post-formative institutional change (Béland and Cox 2010).

Ultimately, these critiques all charge that historical institutionalism explains too little. If actors exhibit at times rational and at times normative or rule-following behavior, and past actions and norms constrain behavior, then what explains which path is followed at moments of institutional decision? Historical institutionalism concerns itself with structural effects; it needs to be coupled with other theories to provide a full explanation of institutional change.

For constructivist or discursive institutionalists, the answer to institutional change lies in the interaction between agents and the structures that constrain them through the medium of ideas or established in discourse — how actors are shaped by and in turn shape ideas and discourses (Jabko 2006; Hay 2010; Schmidt 2010; Peters 2012). In this argument, exogenous shocks or internal crises may loosen the binds of structural forces, but ultimately actors create change through internal processes of identity and interest creation. Actors create change not as straightforward reactors to material forces or as champions of ideas but in the interplay between material reality and ideas. Ideas matter not merely as switches between different path-dependent outcomes (see Goldstein and Keohane 1993) but have path-dependent qualities of their own that bind actors to certain ideational frames.

In the analysis below, I use constructivist institutionalism to address the salience of ideas and framing to critical junctures. I concur with Vivian Schmidt that a discursive analysis is not incompatible with the historical institutionalism framework. A discursive look at institutions
can supplement historical institutionalism with “ideas and discourse providing another kind of micro-foundational logic to institutional development” that helps explain institutional change (Schmidt 2010: 59). By studying framing discourses, Schmidt shows how ideas are communicated can impact institutional change. But, Schmidt argues, its emphasis on agency risks seeming too ‘voluntaristic’ without the structural ideas presented by one of the original three new institutionalisms. Embedded into historical institutionalism’s temporal dimension are two things — history and agency — and highlight how agency at critical junctures combine with historical, path-dependent forces to explain which institutional paths are taken. Only by adding the role played by actors back into the analysis can historical institutionalism address criticism that its temporal logics are mechanistic and deterministic.

To take the argument further, I contend that epistemic framing effects are important not only because it shapes institutional paths at critical junctures but because of the tension epistemic framing creates between societal ideas and the material world. This point highlights a central unease in constructivist theory, particularly in its effort to understand “the manner in which the material world shapes and is shaped by human action and interaction” (Adler 1997:330). Post-structural theorists have questioned whether human society has the capacity to gain objective knowledge about the physical world beyond our flawed, constructed conceptions of reality. My lack of objectivity, however, is no reason to disregard physical objects as things outside of myself. As Alexander Wendt showed with his quip about Montezuma’s theory that the Spanish were gods, disregarding the outside world can have significant consequences (1995: 75). Here, European diplomats’ value-laden ideas of the Danube created a mismatch between perception and the river’s actual characteristics — a gap that locked the Danube Commission into a particular institutional logic. The danger of an anthropocentric view is not only its moral narcissism but its inability offer an accurate account of the complexities of our world. Regardless of whether we have accurate knowledge of it, the physical world, like pre-existing structural conditions of power and norms, shape the realm of possibilities available to international actors at moments of political decision.

The Creation of the Danube Commission: Beyond Power and Norms

The remainder of the paper explores the historical case of the European Commission of the Danube created in the aftermath of the Crimean War to manage the contested river. At the 1856 Paris peace conference, war had created a critical juncture in international politics — a period of political potential where actors had the latitude to solve a practical transboundary
problem through the establishment of an international body. On the surface, the creation of the Commission may seem like a straightforward story of Britain using force to protect its commercial interests (rational institutionalism) or Britain’s commitment to international norms (sociological institutionalism). Under closer scrutiny, however, interest and norms did not translate directly into policy action and cannot fully explain why Britain insisted on a particular institutional design to jointly manage the delta for the commercial interest of all.

I argue that in addition to the importance of structural fixtures such as previously established norms and power relations, groups exerted path-shaping influences at this critical juncture by framing the problem at hand and limiting the menu of solutions. Specifically, I focus my empirical lens on British merchants and diplomatic personnel operating in the Danube delta. Their epistemic framing of the situation on the Danube shaped the institution created by the Paris peace conference to manage the delta by leading to two conclusions: 1) the natural flow of the untamed river presented a geophysical barriers to global commerce and greater human good; and 2) these barriers would be easily resolved if it were not for active Russian neglect. The decision made at this juncture, through the logic of path-dependency, holds more weight than subsequent alterations by virtue of being sequentially first. Once founding decisions are made, the institution becomes self-enforcing. I argue that the gap between merchants’ and diplomatic personnel’s’ epistemic framing and on-the-ground realities resulted in unintended consequences and propelled the self-enforcing nature of the institution’s design.

The historical analysis presented relies on secondary source material supported by primary source newspaper accounts, letters and dispatches from British diplomats and treaties. This account relies on Joseph P. Chamberlain’s 1918 and 1923 works\(^2\) and Henrik Hajnal’s 1920 work on the history of the European Commission of the Danube. Chamberlain and Hajnal are treated as secondary sources of events in 1856, but their accounts can shed light as primary accounts of later international interest in the Commission. Writing from the interwar period, these authors viewed the Danube Commission as a successful example of the merits of global governance. Liberal optimism in the project of global governance may have colored their analysis of the Commission’s founding. When possible, I cross-reference information with source material each author cites including Volume 8 of A. de Clercq’s 1906 compilation of

\(^2\) Joseph Perkins Chamberlain was an American lawyer and law professor at Columbia University from 1823 to 1950. He should not be confused with the prominent 19\(^{th}\) century British politician with the same name.
French Treaties since 1713 and F. Geffcken’s 1883 La Question du Danube, both of which includes notes on negotiations, Parliamentary Papers and personal letters.

Structural Fixtures: Established Norms and Geopolitical Interests

Accepted international norms and power relation between states shaped institutional design at Paris in 1856. The norms of freedom of navigation and commerce, formalized at the 1815 Congress of Vienna, were prominent at the 1856 Paris conference and informed the founding moment of the European Commission of the Danube. Previous to 1815, the medieval system of boatmen and transshipping prevailed along Europe’s rivers (Hajnal 1920: 33; Dijkman 2011: 159; Chamberlain1923: 20-21). These exclusive rights enriched and empowered local guilds but hindered international commerce. In the 17th and 18th century, however, the notion that international rivers should be open to all commerce took root among European states. Agreements such as the 1648 Treaty of Munster, 1785 Treaty of Fontainebleau, and the 1783 treaty between the United States and Britain over the Mississippi River all suggested that rivers should be free to commerce for riparian states, or states situated on the banks of the river (Hajnal 1920: 17-20). Along the Danube, J. P. Chamberlain’s 1923 account detailed the expansion of the same norm.

Through the process of French revolutionary expansion and at the 1815 Congress of Vienna, European powers applied the principles of free commerce and navigation in a systematic way to the Rhine, Meuse, Scheldt and Hondt Rivers. Napoleon could perhaps be considered the norm entrepreneur who championed the freedom of commerce and navigation along international rivers, albeit on the tip of bayonets. At Vienna, norms concerning international rivers were codified in international law. Articles 108-116 established freedom of commerce by abolishing the right of deposit, monopoly of local boats and any compulsory transfer of cargo. The articles called for tolls to be standardized as to avoid corruption, theft, excessive cargo examinations and interference with river traffic (Article 111-2, 114-5). Article 113 stipulated that riparian states were responsible for engineering works along their stretch of the river. Although the Treaty of Vienna did not give non-riparian states specific rights, they established that rivers crossing state boundaries or forming the boundaries between states should be maintained for the profit of global commerce (Article 109).

The Treaty of Vienna was not applied to the Danube River since the Danube lay outside the Congress’ authority. By 1856, however, all parties at the Paris peace conference recognized
the norms formalized at Vienna. When the conference turned its attention to navigation on the Danube, the proposed declaration stated that “the Lower Danube shall be subject to the general stipulations of the Treaty of Vienna in respect to the navigation of rivers” (Crimean War Correspondence: PRO 30/22/18/8, No. 31; ). When the Austrian and British representatives disagreed about the nature of the commissions to be set up to manage the river, each side used the Treaty of Vienna to defend the validity of its position (Crimean War Correspondence: PRO 30/22/18/4, No. 40; PRO 30/22/18/8, No. 31). In the final days at the Paris conference, Count Karl Ferdinand von Buol, the head Austrian representative, argued that the peace conference should adopt a moral idea; the two moral ideas he believed were adopted at the Congress of Vienna were the abolition of the slave trade and the free navigation of rivers (Thayer 1917: 39). Established normative commitments dictated the purpose behind the creation of the Commission.

In addition to established norms, power relations between states, and specifically British and French military victory in Crimea, also influenced the Commission’s institutional design. In the early 19th century, a sizable section of the river’s navigable length passed through the Austrian Empire, which was weakened by the 1848 revolutions and internal financial troubles (Schroeder 1972). The Ottoman Empire controlled the Danube’s mouth, where the 2,860-kilometer river empties into the Black Sea, and a large section of the navigable Danube. As the proverbial sick man of Europe, the Ottoman Empire bled territory as it retreated, and with the Treaty of Bucharest in 1812, Russia acquired half of Moldavia and became a riparian state along the Danube (Chamberlain 1923: 27). Peter the Great first planted a vision of naval prowess in the Russian imperial imagination in the late 17th century, and since then, Russia had been in pursuit of a warm water port that could operate all year round. Ottoman weakness provided the perfect opportunity. Control over the Black Sea and even the Dardanelles would cement Russia’s role as a global naval power (Lambert 2011:37-40). Britain’s and France’s military victory over Russia in the Crimea, however, halted these grand ambitions.

Britain had watched Russia’s southward geopolitical expansion and dreams of naval grandeur with concern. Eastern Europe, the Black Sea and Central Asia stood between Britain and its prized possession: India. Russia’s capacity to hamper Britain’s lines of communications and trade was a central fear in British foreign policy. Whig politician Lord John Russell stated before Parliament that “if we do not stop the Russians on the Danube, we shall have to stop them on the Indus” (quoted in Richardson 1994: 83).
In addition, the repeal of the Corn Laws in 1846 pushed commercial interests in Britain to search for cheap raw materials abroad and the fertile Danube valley increased in importance on Britain’s foreign policy radar. From the period of 1837 to 1842 to the period of 1843 to 1848, the value of British imports in wheat, Indian corn and barley from Galatz increased 70 percent and imports from Braila increased 225 percent (‘Commerce on the Danube,’ Hunt’s Merchants’ Magazine and Commercial Review, September 1852). Great Britain was not the only country engaged in commerce on the Danube — Greek, Italian, French, Prussian and Austrian vessels depended on the Danube delta for commercial navigation.

Military victory over the Russians meant that Britain and France arrived at the Paris Peace Conference with geopolitical leverage against the relatively weaker Russia, Austria and Ottomans. Previously established principles of freedom of navigation and commerce set the normative imperative for cooperative on the Danube, and power combined with commercial interests dictated that Britain and France must have a role on the Commission. However, as the next section will demonstrate, these two factors contributed to but were not sufficient to explain the ultimate institutional design of the Danube Commission.

Birth of an Institution: Standing at a Critical Juncture

The question of Danube navigation was a major war aim for the alliance against Russia but, compared to other aims, Danubian navigation did not generate much controversy since it only required the application of established norms. Discussed in the 5th session of the conference, the parties reached a quick decision (De Clercq Vol. 8: 30-31). Disagreements over the international commission were overshadowed by larger questions surrounding the fate of Russia’s Danubian principalities and neutralization of the Black Sea (Crimean War Correspondence: PRO 30/22/18).

Diplomats at Paris and at subsequent meetings establishing the European Commission did not have a radical agenda to restructure international institutions. Instead, at this critical juncture, diplomats at Paris saw themselves as the continuation of a process — simply applying established norms and giving them regulatory specificity. But in the process that ensued, a new precedent was set and a new form of international institution created. Under the Danube Commission, sovereign rights over a geographic territory were ceded not to a group of
adjacent states but to an international body that included outside states of Britain and France. This was an unprecedented step.

Why did this new institutional arrangement come about? First, the victors of the Crimean War had the geopolitical advantage. France and Britain stood triumphant on the Crimean battlefield and the British navy dominated the seas. British, French and Austrian commercial interests required that shipping channels be properly maintained. Russia, having lost the war, and the Ottoman Empire, having been rescued by France and Britain, were in no position to object. Austria, who had complained of Russian mismanagement but stood at the sidelines during the war, protested the influence of non-riparian states over affairs along the Danube. In response, France and Britain argued that it would be unfair for the commission to work to improve Danube navigation for the sole benefit of Austrian commerce (Hajnal 1923: 74; Geffcken 1883: 11-12). Indeed, it made political sense for France and Britain to extend their influence over the Danube delta past the peace conference to secure their interests in the region. After all, they had paid the price in blood. Austria bowed to British strength and the parties created a commission responsible for the lower Danube that included the victorious non-riparian states. The Commission could only be dissolved with the unanimous consent of all members — a procedural decision that almost guaranteed the Commission’s permanence.

Power and norms, however, are not sufficient to explain all the forces that shaped the creation of the European Commission of the Danube. From a British point of view, perhaps another design would have been more efficient. To achieve results through a commission with seven permanent state powers requires constant meetings and endless bureaucratic effort between representatives on the Commission and home governments. One could imagine other more logical solutions including unilateral British action or the engagement of a private company or a commercial board to undertake the project. In fact, when the British Vice Consul at Galatz proposed the idea of an international commission to oversee navigation on the Danube delta, he offered other options. In a letter dated 30 September 1850, Cunningham laid out four ways to solve the Danube’s navigation problems: 1) for the Russian government to undertake it; 2) for the Russian government to hire contractors; 3) for a Commission of all nations interested in Danube navigation to undertake it; and 4) for a Commission to hire contractors (Correspondence 1853). Why was the international commission selected? I argue that two additional factors that combined epistemic framing of the river with unintended, path-dependent consequences influenced the Commission’s design.
First was the perception that immediate improvements to the Danube channel were needed but riparian states did not have the resolve or means to do so. The urgency behind the need for navigation improvements on the Danube delta was framed in the years preceding the Crimean War by British merchants who used the Danube for commerce and amplified by British vice-counsels at Galatz and Ismail. As will be detailed in the next section, these actors effectively shaped perceptions of Russian neglect and abuses on the Danube delta and shaped the menu of options for the institution that resulted.

Second was the perception that the solution to the Danube’s problems would be quick and easy. The gap between actors’ perception of the problem on the delta and on-the-ground realities resulted in unintended path-dependent effects that locked-in institutional design. The Commission began as a two-year temporary body. The Paris peace conference had originally planned for a second commission of riparian states to regulate and guarantee navigation along the whole river that never came into fruition (Baumgart 1981: 130; Chamberlain 1923: 53; Blackburn 1930). Once the international body was established and could only be dissolved by unanimous vote, it gained an institutional momentum that transcended the treaty’s original intention for a temporary body. Two years, it seemed, was not be enough time for engineers to solve the complex hydrological challenges presented by the delta.

The Epistemic Framing versus River Realities

For constructivist institutionalists, change occurs not as the pursuit of fixed interests, but as the creation, identification and adoption of actions that mold and frame interests. “Within this perspective,” Hay explains, “change resides in the relationship between actors and the contexts in which they find themselves, among institutional ‘architects,’ institutionalized subjects, and institutional environments” (Hay 2010: 68). How actors conceptualize and re-conceptualize the world is vitally important to the institutional choices they make. The emphasis, then, is on how international issues are framed — and as identified by the age-old hammer and nail adage, the manner in which problems are defined affects the policy solution actors subsequently adopt (Peters 115). The following section details British merchants’ and diplomat personnel’s’ framing of the problem presented by Danube navigation. I suggest the framing promotes two ideas about the Danube delta — first, the untamed river could easily be disciplined for the benefit of global commerce, and second, it is only Russian neglect that stands in the way. Once this framing was accepted, then a temporary body including all
powers concerned to address the navigation problem made perfect sense, and once the body was formed, unintended path-dependent effects took hold.

**British Merchants in Framing Russian Neglect**

British merchants trading along the Danube used their descriptions of the river to represent it as a dangerous and exotic location brimming with economic potential. An article published in the *Dublin University Magazine* in November 1856 extolled the bounty of the Danube, quoting McCulloh’s *Commercial Dictionary* which states: “the capacities of this great river as a commercial highway are certainly unequalled by those of any other European stream; and their full development would be of incalculable advantage not merely to countries on its banks but to all commercial nations” (Nov 1854: 625-26). The lands alongside the river are described as overflowing in resources: metals, rock salt, timber, hides, wool, tallow, sheep, goatskin, grain, hemp and cotton. McCulloh’s description almost salivates with commercial desire in describing “the enormous resources of the country, its exuberant fertility, the lowness of price and the laboriousness and parsimony of the people…” (*Dublin University Magazine* Nov 1854: 626; Urquhart 1851: 13-14). In these accounts, one thing stood in the way of harvesting the river’s abundant resources: navigation was dangerous along the untamed river. An October 1843 account in *The Aberdeen Journal* describes the voyage down the Danube:

> The excited waters drive on the boat until it flies before them with the rapidity of an arrow… the boat must cut them rapidly and decisively, like a knife, and the utmost precision, boldness and local knowledge are required in the steersman (*The Aberdeen Journal*, ‘The Cataracts of the Danube,’ 04 October 1843).

In the Danube delta, navigation was particularly frustrating. Many routes twist through the wild and swampy delta, but large merchant vessels could only navigate the middle route, known as the Sulina (or Souлина) channel (Chamberlain 1918: 20). The river carried sand and silt from upstream that accumulated in the delta and obstructed navigation. Abandoned wreckages left in the channel added to navigation difficulties. Merchants, however, did not describe the sand and silt as a natural barrier to commerce. Instead, British merchants in their epistemic role blamed the navigation difficulties on Russian neglect. With the Treaty of Adrianople in 1829, the Danube delta came under Russian control, and according to the Treaty of Vienna, Russia was responsible for maintaining the delta’s channels so shipping of all nations could use the Danube. Russia’s neglect amounted to a violation of international norms (Geffcken 1993: 6).
Merchants stressed specific epistemic claims to illustrate Russia’s willful neglect. When the delta was Ottoman territory, merchants claimed, Ottoman authorities maintained the channel at a depth of 16 feet. But under the Russians, channel depth reduced to 10 feet or even 8.5 feet during adverse winds (*Newcastle Courant* 18 June 1841; Chamberlain 1923: 35).³ To maintain a depth of 16 feet, merchants contended, the Ottomans did not use expensive methods. Instead, according to an article in London’s *Daily News*, Ottomans kept channel depth by “means of heavy iron rakes, which they obliged all vessels to drag after them during their passage out of the Danube” (28 June 1853). Merchants repeatedly pointed to this fact as proof of Russia’s antagonism towards free trade. The argument merchants made was that Russia could have easily and cheaply maintained channel depth, and the fact that Russia did not lift a finger to continue such a simple solution amounted to wilful negligence — a framing of the issue that led to demands for immediate international policy action.

Further, merchants used their narratives to frame Russian neglect as uncivilized lawlessness. The sand and silt buildup along the channel required merchants to remove weight from ships and carry the excess cargo overland (known as lighterage). Lighterage increased transport costs and exposed merchants to extortion and piracy. Russian authority did not regulate the increasing traffic or impose rules on locals who provided pilot and lighterage services for foreign merchants (Chamberlain 1923: 35; *Correspondence* 1853). The anarchic situation was described in a lively account from a merchant in London’s *The Morning Post*:

No harbour master, no regulations. Greeks, Turks, Austrians, Russians, English, and all nations jumbled together, and might is right… knives and pistols continually in requisition. Thank goodness, we are all right yet, though we have had two or three hair-breadth escapes… But I have not told you our worst predicament, the winding up of which will be that the large vessels cannot tell what their expenses will be, or when they will get over the bar. Half-a-dozen lighters to lighten 700 or 800 sails of ships, some of 400 tons. The whole place is mad (*The Morning Post* 21 May 1847).

An analysis of the language used by merchants demonstrates a moral indignation against Russia as much as an economic argument. As illustration, one merchant fumed:

English and other ships have been paying so many Spanish dollars to the Russians for a service unperformed, besides many pounds of sterling for the cost of lighterage, insurance, and losses which the Russian breach of engagement has entailed on commerce (*Daily News* 28 June 1853).

³ Measurements used here are in English feet as oppose to Venetian feet.
In this argument, the moral indignation arises from the injustice of a service paid for but not delivered — a violation of commercial codes everywhere. Other merchants argued that Russia hindered British subjects from exercising “their just and lawful right,” and that “England has full right to demand that the navigation of the Danube shall not be impeded” (Dublin University Magazine Nov 1854; The Daily News 2 July 1853). In these arguments, merchants refer to freedom of navigation as a right under international law — a normative understanding enshrined in the Treaty of Vienna. Finally, merchants also argued that Danube navigation is “foremost in the great work of international trade, to which we must look forward as the surest pledge of future peace and prosperity” (The Era 23 January 1851). This argument links trade to global peace and civilizational advancement, a liberal argument championed by Richard Cobden’s and John Bright’s Manchester School. Hence, merchant interests in Britain marshalled various arguments to paint Russia as a violator of basic commercial codes, international norms and liberal notions of progress through free trade. Their epistemic framing allowed merchants to transform a geographic fact — the silted channels at the Danube’s mouth — into a Russian affront against free trade and human civilization.

British Diplomatic Personnel in Framing Russian Neglect

British Vice-Consuls stationed at the ports of Galatz and Ismail—Charles Cunningham and St. Vincent Lloyd—used their professional authority to amplify British merchants’ concerns to policymakers in London. Through their detailed and bureaucratic reports, they bolstered merchants’ claims and framed navigation difficulties on the delta as a simple problem that has been exacerbated as a direct result of Russian neglect.

Charles Cunningham was stationed in Galatz, a town roughly 100 kilometers from the Sulina mouth of the Danube, and St. Vincent Lloyd was stationed at Ismail, halfway between Galatz and the Black Sea. As Vice Consuls, Cunningham and Lloyd kept meticulous records (Parliamentary Papers FO 78/977 & FO 78/648; Correspondence 1853). Cunningham wrote of the commercial traffic that passed through the Danube delta. His reports contained maps, the technical particulars of navigation, statistics on commercial activities and incident reports of collisions.

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4 Counsels and Charges d’Affaires, as representatives of the British government and not of the Queen, the official head of state, are not technically in the diplomatic service (Jones 1983: 70). For my purpose here, however, they are considered part of the diplomatic profession as their occupation serves the same information-gathering function as others in the diplomatic service.
Cunningham framed the situation as simple: Russia had neglected to maintain the depth of the Danube channel and therefore had become a barrier to British trade:

There is little doubt that a small steam-boat of 20 or 30 horse-power passing and repassing over the bar when the weather permitted, drawing a heavy iron rake after her, would keep the water on the Sulina bar at 16, perhaps 18, feet English (at least, it appears that while the Sulina was in possession of the Turks, the depth of 16 feet was kept on the bar by causing each sailing vessel as she went out to drag a similar rake after them); and it is evident this might be done at a very trifling expense (Correspondence 1853: report dated 30 September 1850).

Clearing the channels would have been easy but Russia still refused. In another letter, Cunningham wrote, “Notwithstanding the intention of the Imperial government, it is clear that the duties assumed at Sulina have hitherto not been satisfactorily performed.” (Parliamentary Papers FO 78/977: 189).

Lloyd concurred with Cunningham’s assessment. The British had sent a special steam dredging machine to the delta. The machine was designed to dig up and deposit sand and silt from the river bottom onto an awaiting barge. Lloyd describes the machine’s ineffectiveness and questions whether the machine was the best means for clearing the bar. “It appears to me, and my opinion has been confirmed by that of most persons competent to judge, that the only effectual means to be employed is the dragging of a properly constructed harrow in and out of the river, over the bar, by a steam vessel.” All that is needed, Lloyd writes, is to loosen the sand and silt so the river could carry the debris into the Black Sea. This simple solution, Lloyd maintained, does not require complex equipment and saves on fuel and manual labor (13 July 1951 Correspondence 1853). The certainty in Cunningham’s and Lloyd’s reports suggested that this problem could be easily addressed at little expense. These reports served an epistemic role in framing British policymakers’ understanding of the Danube delta.

Cunningham and Lloyd also outlined Russia’s abuses against merchants in the delta such as an incident where authorities arrested the commander of an Austrian ship without reason. Although the commander was released upon examination, Cunningham wrote “this act of authority was to be considered a dangerous precedent, and to deprive a vessel of its commander while in a situation where none can be said to be perfectly safe, was at the least a very serious matter” (Parliamentary Papers FO 78/977: 190). Lloyd described characters of ill-repute, likely under the protection of the Russian authorities, who waited to pray on ships entering Sulina and argued that these “evils that arise from the present system are sufficiently
serious to require immediate attention” (14 November 1848 Correspondence 1853). In relating these details back to their foreign ministries, Cunningham and Lloyd amplified merchants’ arguments and illustrated the severity of the situation, framing the problem as ‘serious’ and ‘dangerous’.

Accepted Knowledge Meets River Realities

To address these navigation problems, British foreign secretary Viscount Palmerston directed British emissaries to press Russian Foreign Minister Count Karl Nesselrode to find a solution (Correspondence 1853). To demonstrate British policymakers’ eagerness to achieve results, Palmerston gave a speech before Parliament outlining the extensive correspondence between Britain and Russia on the subject (The Morning Chronicle 20 August 1853; Hajnal 1920: 64). The body of correspondence between Cunningham, Lloyd, other British diplomats in the region and officials in London from 9 February 1849 to 15 July 1853 was published and cited here as Correspondence 1853. The letters chart the British government’s repeated request for Russia to clear the Danube channel of sand, silt and wreckage so commerce could continue.

Observers at the time and subsequent writers have noted that Russia likely had little incentive to speed up navigation on the Danube (Krehbiel 1918; Chamberlain 1923: 36; Urquhart 1951: 14; Correspondence 1853). Trade along the Danube competed with Russian trade from Odessa, a Black Sea port roughly 200 kilometers (125 miles) north of the Danube delta. This motivation for Russian intransigence, however, may have been overstated. Palmerston himself wrote “it is plainly manifest that any such idea would be erroneous, and that prosperous commerce by the Danube would in no way interfere with prosperous commerce by Odessa” (24 September 1851 Correspondence 1853). British eagerness for raw materials and markets for manufactured goods could not be satisfied by the Danube alone.

Russian authorities maintained that they made efforts to address complaints against the management of the Danube delta. Nesselrode assured Britain that efforts were being made to clear the channel and instructions had been provided to local authorities. One British emissary related to Palmerston: “Count Nesselrode said that whatever instrument might be employed, no greater improvement in the depth of the channel could be expected, as the action of the sea would always throw back the sand which was removed by artificial means.” (2 September 1851 Correspondence 1853). British leaders, however, convinced by Cunningham’s and Lloyd’s epistemic framing, continued to insist that a simple harrow or
rake was the clear solution. British diplomats’ certainty about a cheap and simple solution, however, might not have reflected physical reality. Subsequent scholarship has revealed that perhaps the situation was not so simple — the hydrological and technical complexities of clearing the Sulina channel were almost certainly more difficult to solve than the British diplomats had so confidently believed (Ardeleanu 2010). The gap between framing and reality accounts for why the Commission was originally set up as a temporary body for only two years but was subsequently extended indefinitely to meet the requirements of the river.

The Commission convened on 4 November 1856 to start work immediately, but found that simply dredging the river was not enough. The Commission conducted engineering surveys, built embankments and jetties and improved port infrastructure at Soulina. To pay for the works, the Commission gained fiscal powers as it levied duties based on tonnage and contracted loans guaranteed by member states. Further, the Commission added regulatory and judicial powers as it needed to maintain order on the delta to complete engineering works and regulate shipping (Chamberlain 1923: 57). The unintended path-dependent effects were clear. The Commission’s tenure and powers had to be extended to keep up with the river’s complex hydrological requirements and adapt to ever-changing commercial needs. In 1865, the commission was granted a five-year extension, in 1871 a 12-year extension, and in 1883, the commission was given a 20-year extension with automatic renewal every three years after that (Blackburn 1930).

As decades passed, it became clear that what first began a temporary body had evolved into a new type of institution. The Commission became permanent with administrative, regulatory, fiscal and judicial powers first in the delta and then upriver. Later, in the writings of early 20th century liberal thinkers such as Leonard Woolf, the European Commission was lauded as an achievement in international governance and the first international executive body (Woolf 1916: 21). The secondary sources used throughout this analysis by Chamberlain and Hajnal date from this period of liberal optimism where experts in international law looked to the Commission as a model for international government. In 1930, Glen A. Blackburn’s article on control over the Danube even described the Commission as being “at the twilight of statehood” and something quite extraordinary in European history (Blackburn 1930).

**Conclusion: International Institutions, Constructivism and Knowing**
In the *Social Theory of International Politics*, Wendt takes issue with theories that “cannot account for the resistance of the world to certain representations, and thus for representational failures or misinterpretations.” The push of outside forces, Wendt argues, is most obvious in nature and “whether our discourse says so or not, *pigs can’t fly*” (1999: 46-56). While this analysis is conscious of the epistemic challenge of understanding the natural world beyond our discourses of it, I argue the ontological position that misrepresentations of the physical world has political consequences — the gap between perception and reality on the Danube delta shaped the institutional design of the international commission set up to govern it.

Framing the discourse mattered. Merchants and diplomatic personnel in the early 19th century shaped understanding of the delta as a physical barrier to global commerce and prosperity – a barrier that could easily be overcome at relatively low costs if only the great powers could bypass Russian intransigence. However, framing mattered in determining the design of the international commission not only because it defined the problem and limited the menu of option. Framing also mattered because of the distance between representation and natural reality. It was this mismatch that locked the Danube Commission into a self-enforcing path from the routine application of an international norm in 1856 to a revolutionary form of international institution.

Scholarship on international institutions governing the environment has focused almost exclusively on the last century (Haas 1992; Young 2010; Marcoux 2011). International efforts to manage and govern contested geographic features, however, have a fuller history harkening back to debates around Grotius’ *Freedom of the Seas* (1609) and beyond. The study of this rich historical material can inform current analytical and normative debates about the creation and evolution of international institutions, particularly the role of changing conceptions of the natural environment in shaping institutional creation and design. Detailed historical studies can illustrate and challenge the excessive functionalism and optimism of current literature on environmental institutions that assume increased cooperation directly equates to the march towards a more equitable, global environmental order (Bernstein 2000).
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