Abstract
Contemporary global governance takes place not only through formal inter-governmental organizations (IGOs) and multilateral treaties, but also through other institutional forms, including informal inter-governmental organizations (IIGOs), trans-governmental networks (TGNs) and transnational public-private partnerships (TPPPs). While these forms differ in many ways, they all constitute what we call low-cost institutions (LCIs): the costs to create, operate, change and exit from them are all lower on average than for IGOs and multilateral treaties. At the same time, LCIs provide many of the general cooperation benefits associated with international institutions, as well as specific benefits including reduced risk, malleability, flexibility, and for some types of LCI greater ability to engage and influence non-state actors.

We argue that the availability of LCIs changes the cost-benefit logic of institutional choice, even for boundedly rational states, making the creation of new institutions, which existing research sees as the “last resort,” more likely. In addition, some LCIs empower bureaucratic (TGNs) and societal (TPPPs) actors. This changes the politics of institutional choice, incentivizing those actors to favor the creation of LCIs over treaty-based institutions. As a result, the availability of LCIs affects global governance in multiple ways: reducing its status quo bias, changing its institutional composition, empowering non-state actors and expanding governance options.
I. Introduction

- Why did states establish the Financial Stability Forum (FSF) in 1999, when numerous inter-governmental institutions, including the International Monetary Fund (IMF), World Bank (IBRD) and Organization for Economic Co-operation and Development (OECD) were available to promote financial stability (Clarke 2014)?
- Why did states form the Financial Action Task Force (FATF) in 1989 to combat money laundering, despite the availability of capable institutions including the IMF, OECD and regional security organizations (Hameiri, Jones and Sandor 2018)?
- Why did the IBRD, with member state approval, establish the Prototype Carbon Fund (PCF) in 1999 to support market-based climate change mitigation mechanisms, instead of acting through the IBRD or the United Nations Framework Convention on Climate Change (UNFCCC)?

In all of these cases, states addressed emerging cooperation problems not by using incumbent treaty-based institutions, but by creating new institutions of different types, including informal intergovernmental organizations (PSI and FATF), a trans-governmental network (FSF), and a transnational public-private partnership (PCF). We argue that these decisions followed a common rationale, based on the low formation, operating, change and exit costs of these institutional forms, the general and specific governance benefits they provide, and their ability to engage non-state actors.

These examples are by no means anomalous. The number of informal intergovernmental organizations (IIGOs) rose from 27 in 1990 to 72 in 2010, a 167% increase (Vabulas and Snidal 2013). In the same period, the number of transnational public-private partnerships (TPPPs) increased from 26 to 167, a 542% increase (Westerwinter 2016:2). The number of trans-governmental networks (TGNs) expanded from 25 in 1989 to 141 in 2018, a 464% increase (Abbott et al. 2018:10).

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1 Purely private transnational regulatory organizations (PTROs) have also proliferated. In climate change, for example, while PTROs “barely existed” in 1990, at least 31 operate today (Abbott, Green & Keohane 2016:253; 248).
These developments pose a challenging empirical puzzle for the prevailing theory of institutional choice, developed by Jupille, Mattli and Snidal (JMS) (2013). Under the JMS logic, states assign emerging cooperation problems to incumbent treaty-based institutions so long as they expect those institutions to produce governance outcomes “above some minimum threshold” (JMS:7). For JMS, such status quo choices reduce costs, uncertainty and risk compared to changing incumbent institutions and, especially, to creating new institutions to replace them, the most costly, risky and uncertain option. JMS thus expect new institutions to be created only rarely, so that global governance features a “strong status quo bias” (JMS 2013:35). Movements away from the institutional status quo represent “if not puzzles, then at least phenomena of particular interest” (JMS 2013:49-50), and the proliferation of new institutional forms is a dramatic move away from the status quo.

This paper explains why states regularly opt for what is allegedly the most costly, risky and uncertain institutional option available to them, creation of a new institution. In line with JMS, we adopt an actor-centered perspective that conceives of actors as boundedly rational and puts costs, risks and governance benefits center stage. In contrast to JMS, however, we develop a logic of institutional choice that explicitly accommodates the costs, risks and governance benefits of diverse institutional forms, not only those of treaty-based institutions.

We treat IIGOs, TGNs and TPPPs as important members of a class of international institutions we call “low-cost institutions” (LCIs). The LCI concept is a stylized theoretical construct or “ideal type” (compare Vabulas & Snidal 2013:197). While IIGOs, TGNs and TPPPs, individually and collectively, differ in their memberships and other respects, they also share important institutional features. This makes it analytically fruitful to treat LCIs as a distinctive class of institutions available to states making institutional choices.

States choose to create LCIs for four reasons, based on four sets of common features. First, the costs of creating LCIs, as well as their operating costs, sovereignty costs, change costs and exit costs, are all on average substantially lower than those of treaty-based institutions. Second, LCIs offer many of the general governance benefits of treaty-based institutions: for example, they reduce the transaction costs of cooperation, mitigate asymmetric information, enable working relationships among officials, and establish relatively stable behavioral expectations (see Keohane 1984). Third, LCIs provide specific governance benefits not

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2 These might be new problems, existing problems that have changed significantly, or newly salient problems (JMS 2013:23).
3 The creation of LCIs involves decisions by states; we do not consider wholly private organizations. We can therefore contrast state formation decisions with the institutional choice logic of JMS.
equally available through treaty-based institutions, including reduced risk, malleable form and flexibility; where non-state actors participate in LCIs (e.g., in TGNs and TPPPs), they contribute additional competencies and enhance the institution’s ability to target and engage non-state actors. Fourth, LCIs empower non-state participants: TGNs empower bureaucratic actors, TPPPs societal actors, and IIGOs executive officials. This incentivizes those actors to favor the creation of LCIs (of the appropriate type) when they seek transnational cooperation. Taken together, these four factors – low costs, general governance benefits, specific governance benefits and empowerment – explain why LCIs have proliferated. The availability of LCIs changes the cost-benefit calculations of states and other governance actors in ways that make the creation of new institutions (LCIs, not treaty-based institutions) more likely than JMS suggest. By implication, then, it also counteracts their expectation of a strong status quo bias in global governance.

The proliferation of LCIs also has other important implications for governance. LCIs provide a more diverse and flexible palette of governance approaches than treaty-based institutions, more actively engage bureaucratic and societal actors, and allow states to strike a different balance of benefits and costs. They make global governance less rigid, helping to overcome gridlock in inter-state negotiations (Hale et al. 2013) and stagnation in traditional international legal structures (Pauwelyn et al. 2014).

At the same time, the absence of legally-binding rules and strong monitoring and enforcement mechanisms constrains the ability of LCIs to successfully tackle cooperation problems that require deep cooperation, based on credible commitments and strong enforcement to overcome incentives to defect. Where cooperation need not be deep in this sense, LCIs are often the first-best choice, as they provide adequate cooperation benefits at low cost. Where problems do require deep cooperation, LCIs may be the second-best solution: treaty-based cooperation is first-best, yet if gridlock prevents such cooperation, LCIs can still provide meaningful cooperation benefits.

The remainder of the paper is structured as follows. Section II introduces LCIs. It identifies their common institutional features; explains how these features give rise to low costs, general and specific governance benefits, and limitations; and presents the three forms of LCI we consider here. Section III describes the JMS logic of institutional choice. Section IV modifies that logic by introducing the availability of LCIs, first in a context of unitary states, as in JMS.

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4 The more a cooperative arrangement requires actors to diverge in their behavior from what they have done in its absence, the deeper is cooperation (Downs et al. 1996: 383).
II. Introducing Low-Cost Institutions

A. Defining LCIs

LCIs are institutions: “persistent and connected sets of rules (formal and informal) that prescribe behavioral roles, constrain activity, and shape expectations” (Keohane 1988:383). Institutions alter the expectations of actors as to how others will react to their own actions, providing greater certainty about social behavior (Hall & Taylor 1996: 939). In doing so, they produce regular patterns of social interaction (Aspinwall & Schneider 2000:22). While some institutions are only implicit, LCIs, like treaty-based institutions, are “explicit arrangements, negotiated among international actors, that prescribe, proscribe, and/or authorize behavior” (Koremenos, Lipson and Snidal 2001:762). Many LCIs are also organizations: “institutions capable of exercising agency” (Abbott, Green and Keohane 2016:256).

Yet LCIs are international institutions with characteristic features. Most importantly, they are created not by legally-binding treaties among states, but by non-binding agreements or understandings. For that reason, they also lack authority to adopt new rules that can legally bind states. In addition, LCIs feature less elaborate decision-making formalities than treaty-based institutions. Finally, important types of LCIs (including TGNs and TPPPs) incorporate non-state actors as members, rather than or in addition to states. The low costs and the governance benefits and limitations of LCIs derive from these features. Taken together, they constitute LCIs as a distinct class of international institutions.

B. Costs

The average LCI enables transnational cooperation at significantly lower costs than the average treaty-based institution. Because we are interested in decisions to form international institutions, formation costs are particularly important. Formation costs take three main forms:

- **Transactions costs** are the international costs of engaging in transnational cooperation; they include the costs of searching for partners, acquiring information, bargaining, contracting, and institutionalization (JMS 2013:38 n. 44). These costs are lower for LCIs than for treaty-based institutions because LCIs are not created by legally-binding treaty and lack authority to adopt legally-binding rules; LCIs can be formed with fewer inter-state diplomatic formalities and less intensive bargaining than are
characteristic of treaty negotiations: “time-consuming processes that consume both real resources and political capital” (Raustiala 2002:89). However, transaction costs vary across types of LCIs. For example, the transaction costs of forming TPPPs are typically higher than those of forming TGNs. Creating a TPPP involves high costs of search, with many possible partners, and of negotiation, with disparate actors seeking to institutionalize “hybrid authority” (Andonova 2010). A TGN, by contrast, brings together bureaucrats working on similar issues, who are often already acquainted.

- **Domestic approval costs** are the costs faced by proponents of transnational cooperation in persuading their governments to engage in particular forms of cooperation, and in actually authorizing and initiating those engagements. They include the costs of obtaining authorization from, e.g., senior executive officials, inter-agency committees, legislatures and the like (Lipson 1991). They also include the costs of overcoming resistance from opponents of cooperation, which may stem from substantive differences, anticipated costs or political considerations. Domestic approval costs are lower for LCIs than for treaty-based institutions because procedures such as high-level executive clearance and legislative approval, widely required for treaty-based institutions, can often be avoided. It may also be easier to persuade authorities to pursue LCIs and to overcome opposition to them because of their limited legal authority.

- **Sovereignty costs** are the “decisional autonomy costs that states face in accepting encroachments on their sovereignty” (JMS 2013:25). They “can range from simple differences in outcome on particular issues, to loss of authority over decision-making in an issue-area, to more fundamental encroachments on state sovereignty” (Abbott & Snidal 2000:436). Sovereignty costs increase to the degree that states “accept external authority over significant decisions,” especially decisions that “impinge on the relations between a state and its citizens or territory” (Id.:437). Because of their non-binding character, LCIs entail less “loss of authority” than do treaty-based institutions. In addition, states can typically withdraw from LCIs at lower cost than from treaty-based institutions. Domestic approval and sovereignty costs also vary across types of LCIs: for example, because TPPPs usually address issues with limited political salience and distributional conflict, both costs are lower than for TGNs and IIGOs.
Other types of costs arise over time. We assume, however, that states and other actors “discount” future costs and consider them as part of the formation decision.

- **Operating costs** are the costs of the ongoing activities of an institution. They include the salaries and expenses of national delegations, institutional staff, governing bodies, advisors and other personnel, and the costs of headquarters and other offices. Importantly, operating costs also include the costs of making and implementing decisions, including material expenses, time and political costs incurred. These costs are lower in LCIs because of their less elaborate decision-making formalities. In addition, LCIs often have smaller and less costly material footprints.

- **Change costs** arise when participating actors modify features of an institution in response to changed conditions or new demands. These are essentially re-formation costs, and so are lower in LCIs for the same reasons as formation costs are. Low decision costs also facilitate change.

- **Exit costs** are the costs that states or other actors must incur to withdraw from an institution or its rules. Because institutions enable participants to realize joint gains through collective action, exit costs include foregone cooperation gains. They also include expenses incurred, domestically and internationally, to organize and implement exit. Finally, exit costs include political costs such as weakening an actor’s reputation as a reliable partner. While exit from LCIs does forego gains from cooperation, other exit costs are lower than in treaty-based institutions because of LCIs’ low operating and change costs and their non-binding character.

To be sure, not every LCI has equally low costs; LCIs range along a cost continuum. For example, in a particular TPPP, government, business and civil society participants may have strongly divergent preferences, increasing decision costs. Likewise, not every treaty-based institution has equally high costs; they too range along a cost continuum. For example, a particular treaty may incorporate design features such as escape and withdrawal clauses that reduce sovereignty and exit costs (Pelc 2009; Rosendorff & Milner 2001). Yet such isolated islands of flexibility rarely produce costs as low as those of LCIs, where low costs pervade institutional structures and procedures. Having said that, let us reiterate our central point: the average LCI enables transnational cooperation at significantly lower costs than the average treaty-based institution.

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5 Sovereignty costs may also arise over time, as institutions adopt constraining rules.
C. Governance benefits

LCIs generate two kinds of governance benefits: general benefits produced by all institutions, and specific benefits that stem from the particular features of LCIs.

First, LCIs create many of the governance benefits associated with institutions of all kinds, because they enable governance actors to interact continuously on the basis of agreed principles or rules. Thus, LCIs reduce the transaction costs of cooperation, build transnational working relationships among officials, mitigate problems of inadequate or asymmetric information, construct actor reputations and make it easier to assess them, and reduce uncertainty about actor behavior – although these expectations are less stable than in treaty-based institutions due to the low change costs and limited enforcement power of LCIs (see Keohane 1984:Chapter 6).

Second, the relatively low costs, on average, of LCIs produce specific governance benefits.

- LCIs pose fewer risks from cooperation than treaty-based institutions. Low formation, change and exit costs reduce the risk that transnational negotiations will unfold in unforeseen and harmful ways. Low change costs reduce the risk that a new institution will not effectively address the problem at hand. And low sovereignty and exit costs reduce the risk that an institution will impinge unduly on state authority.
- The structures, procedures, rules and policies of LCIs are highly malleable: they can be fine-tuned to fit specific problem characteristics and contextual features more easily and effectively than those of treaty-based institutions. This is the result of LCIs’ lower formation costs, especially transactions and domestic approval costs; avoiding diplomatic and legal formalities provides LCIs a more diverse and nuanced palette of institutional options. Lower operating and decision-making costs also enhance fine-tuning.
- Actors can modify the structures, procedures, rules and policies of LCIs more easily and effectively than those of treaty-based institutions, because of LCIs’ low change costs. Flexibility allows LCIs to adapt easily and effectively to changing conditions, new information, emerging issues and new governance demands. Flexibility also helps LCIs engage in experimentalist governance (Sabel and Zeitlin 2010, 2012), trying different approaches and learning through trial and error.
- LCIs impose more relaxed constraints on states and other participants than do treaty-based institutions, because LCIs are not the product of legally-binding agreements and cannot adopt legally-binding rules. These features imply low sovereignty costs,
change costs and exit costs. As discussed further below, relaxed constraints can be a serious limitation, as they reduce the ability to create credible commitments. Yet in many circumstances, states and other actors place a high premium on freedom of action, so relaxed constraints can facilitate (modest levels of) cooperation.

Additional benefits stem from non-state actor membership in important categories of LCIs, including TGNs and TPPPs. Non-state membership is a major reason why many LCIs cannot adopt legally-binding rules, reducing their transactions, domestic approval, sovereignty and exit costs. These membership structures also allow LCIs to draw on the competencies of non-state actors, from the expertise of government agencies and the material resources of business to the normative commitment and legitimacy of civil society organizations. These competencies also allow LCIs to engage more effectively with non-state actors, as stakeholders and as targets of governance: more knowledgeably framing rules and policies to influence their behavior, and more effectively interacting with them to promote implementation and mobilize enforcement pressures. These benefits are particularly important for cooperation problems like climate change, which derive from non-state actor behavior.

D. Governance limitations

The same institutional features responsible for LCIs’ low costs and specific governance benefits also act as limitations, constraining LCIs’ ability to address demanding cooperation problems. LCIs cannot adopt legally-binding rules, and so cannot create highly credible state commitments (Abbott and Snidal 2000). LCIs are less highly institutionalized than treaty-based institutions, and so cannot offer the same centralization of cooperative activities and institutional independence (Abbott and Snidal 1998). Weak institutionalization limits their ability to implement strong monitoring and enforcement. In short, LCIs cannot facilitate deep cooperation, inducing states to behave in ways that diverge significantly from their ideal policies (Downs et al. 1996). Thus, LCIs are not optimal institutional choices in settings where credible commitments are essential, distributional conflicts are strong, defection from cooperative solutions is likely, and noncompliance is difficult to detect (Abbott & Snidal 2000:45-46).

States and other actors making institutional choices must balance the costs, general and specific governance benefits and limitations of different institutional forms. Choosing an LCI involves a tradeoff: states cannot bind themselves and others as strongly as with a treaty-

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6 In most cases, however, rules adopted by treaty-based institutions must be separately ratified by states to take effect.
based institution, but they can still achieve a significant degree of governance, with lower political and material costs and risks. Where binding rules, monitoring and enforcement are essential, the benefits of treaty-based institutions will outweigh the lower costs and risks of LCIs. In other settings, however, the low costs of LCIs, as well as their general and specific benefits, make LCIs the best institutional choice for boundedly rational actors.

E. Types of LCIs

In this section, we briefly introduce the three types of LCIs we consider here, showing how each reflects the features, benefits and limitations of LCIs as a class.

IIGOs:

An informal international organization (IIGO) is “an explicitly shared expectation – rather than a formalized agreement – about purpose […] with explicitly associated state ‘members’ who participate in regular meetings but have no independent secretariat or other significant institutionalization such as a headquarters and/or permanent staff” (Vabulas & Snidal 2013:197). Unlike other LCIs, IIGOs are “by definition intergovernmental with states as the key participants (at the ministerial or executive level)” (Id.:198). Examples include the G7/8, G20 and other “G-groups.”

IIGOs are based on explicit expectations, not legally-binding agreements; compared to treaty-based institutions, they can be created “more quickly and with lower negotiation costs because … commitments are less binding and permanent” (Vabulas & Snidal 2013:211). Thus, IIGOs entail low formation and sovereignty costs. Domestic approval costs are low, as IIGOs may avoid costly procedures applicable to treaty-based institutions. With no secretariat or headquarters, operating costs are low. IIGOs provide substantial flexibility in response to changing circumstances (Id. 209-210; Lipson 1991). “Less binding and permanent” commitments reduce sovereignty and exit costs, helping states deal with uncertainty and risk. Yet these same features limit the ability of IIGOs to create credible commitments or adopt strong monitoring and enforcement mechanisms (Vabulas & Snidal, 2013:210).

TGNs:

Trans-governmental cooperation involves “direct interactions among sub-units of different governments” that “are not controlled by the policies of the cabinets or chief executives of those governments” (Keohane and Nye 1974, 43). The members of trans-governmental networks (TGNs), such as the Body of European Regulators for Electronic Communications (BEREC), are not states, but “discrete, specialized agencies of governments” (Raustiala
This makes TGNs particularly suitable for policy areas seen as complex and technical.

The legal basis of TGNs lies in voluntary agreements among agencies, not inter-state treaties. This minimizes “international diplomatic formalities and domestic approval processes,” including “layers of domestic legal review” (Abbott, Kauffmann & Lee 2018), reducing formation costs. TGNs can only adopt non-binding decisions and generally act by consensus, limiting sovereignty and exit costs. Decision costs are low, as formalities are limited and members share a common epistemic orientation. As with IIGOs, however, these features limit the ability of TGNs to monitor and enforce their decisions. Their flexibility may lead member agencies to seek frequent changes motivated by short-term interests (Eilstrup-Sangiovanni 2009:202).

The non-state character of TGN membership is challenging for our analysis, as we focus on state decisions to maintain comparability with JMS. However, while some TGNs are established by agencies with little state involvement, many are “sponsored” by states, treaty-based institutions or supra-national bodies, which direct or encourage their formation (Abbott, Kauffmann & Lee 2018:14). The EU, for example, has sponsored or created numerous TGNs, including BEREC, to coordinate implementation of EU law (Eberlein and Newman 2008).

We focus on sponsored TGNs, which involve institutional choices by states.

TPPPs:

Transnational public-private partnerships (TPPPs), such as the Roundtable on Sustainable Biofuels, blend public and private authority. They are “agreements for collaborative governance between public actors (national governmental agencies, subnational governments or IOs) and non-state actors (foundations, firms, advocacy organizations, or others) which establish common norms, rules, objectives, and decision-making and implementation procedures for a set of policy problems” (Andonova 2010:25-26).

TPPPs are “based on soft agreements not carrying the force of international law, and are structured around decentralized networks with low level of bureaucratization” (Id.:28). Thus, they have lower transactions and domestic approval costs than treaty-based institutions, create few sovereignty costs and have low exit costs. TPPPs can be fine-tuned to specific conditions, and are highly flexible. They pool “authority, competences, and resources from both the public and the private spheres,” (Id.:28), helping them to engage and influence private actors. They “complement the functions of intergovernmental institutions by creating numerous niches for incremental, outcome-oriented collective action…” (Id.:26). However, TPPPs
cannot adopt legally-binding rules and have little capacity for monitoring or enforcement; most focus on operational activities.

These three forms do not necessarily exhaust the category of LCIs. Many private standard-setting bodies meet our definitional criteria and are significant global governance actors; while not formed by state decision, states and treaty-based institutions do orchestrate them (Abbott et al. 2015) and delegate to them (Green 2018). The same is true of institutions formed by other non-state actors, such as subnational governments. Sub-types could be identified within our three categories. And new low-cost institutions may emerge and thrive. We focus on IIGOs, TGNs, and TPPPs primarily for analytical reasons: to maximize comparability with the state-based approach of JMS. At the same time, we regard these institutional forms as the most consequential for global governance.

F. Related concepts

Other concepts in the literature on international institutions are related to, but different from, our concept of LCIs. One example is “soft law” (Abbott & Snidal 2000). Soft law is central to LCIs, which are established by non-legally-binding agreements, not by treaties, and create soft law, not legally-binding rules. The governance benefits and limitations of LCIs also resemble those of soft law: both have low formation, sovereignty and exit costs, and limited enforcement. However, soft law refers primarily to norms, an output of transboundary cooperation; the LCI concept, in contrast, encompasses broader aspects of institutionalization, including participating actors, processes of interaction, and actions as organizations.

Another related concept is “informal institutions.” Definitions of informal institutions in the literature focus heavily on inter-state institutions. As noted above, Vabulas & Snidal (2013) define an IIGO (an important LCI) as an explicitly shared expectation among states, that involves regular meetings but no independent secretariat or headquarters. Lipson (1991:498) defines informal inter-state agreements as those that lack states’ “most authoritative imprimatur, … treaty ratification;” agreements are more informal as they are made at lower levels of government and expressed in “less formal” written or oral form. While both definitions share elements with our understanding of LCIs, and produce similar benefits and limitations, they are less expansive concepts.

In sum, the concepts of LCIs, soft law and informal institutions necessarily overlap. However, LCIs are not reducible to these concepts. Distinguishing LCIs analytically captures more than a particular legal output (soft law), and is both broader and more specific than “informality.”
Reducing LCIs to either of these concepts would conceal important distinguishing features that determine their comparative advantages (compare Eilstrup-Sangiovanni 2009:226).

III. The JMS model

The logic of institutional choice developed by Jupille, Mattli and Snidal (2013) seeks to explain the collective institutional choices that states make as they organize to address emerging cooperation problems. States do not make these decisions on a clean slate: “Many, perhaps most, cooperation problems arise in the context of an already institutionalized status quo with a focal institution that is the default institutional alternative,” such as the World Health Organization in global health (JMS 2013:9). In this context, state decisions result from “interactions between cooperation problems and the institutional status quo” (JMS 2013:19).

JMS posit four distinct choice strategies states can adopt: USE (address the problem through the default focal institution in the issue area), SELECT (choose one out of two or more incumbent institutions), CHANGE (modify an incumbent institution to better address the problem), and CREATE (form a new institution to replace an existing one). These four strategies constitute the universe of ways in which states can engage institutions, and are the dependent variables in the JMS analysis.

Figure 1 below presents a simple spatial representation of the choices identified by JMS.

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USE      SELECT      CHANGE      CREATE
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Figure 1. JMS Choice Sequence

For JMS, USE is the choice with the lowest costs, uncertainty and risk. States simply assign an emerging cooperation problem to the incumbent focal institution; states are already familiar with its capabilities. SELECT is somewhat costlier and more uncertain, but not dramatically so: here states must decide whether to assign the problem to one familiar institution or another, where both appear potentially suitable for addressing the problem.

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7 For JMS, “uncertainty” captures uncertainty about the state of the world and the impact of institutional choices.
The next choice, CHANGE, is substantially costlier and more uncertain – and thus is shown as considerably farther to the right in Figure 1. Here states decide to modify the structure, mandate, authority or other features of the focal institution, or another incumbent institution, so that it can more effectively address the problem. CHANGE is costly in part because of the transactions costs of negotiating and implementing institutional modifications, but even more because of uncertainty concerning the outcome of negotiations, the changed institution’s potential effectiveness and the sovereignty costs it may create.

A decision to CREATE a new institution is again substantially costlier and more uncertain than CHANGE, and is shown farther to the right. The reasons are similar, but transactions costs, uncertainty and risk are all much higher than with CHANGE, where some, perhaps many features of the current institution remain intact. For JMS, importantly, CREATION means that the new institution will completely replace the incumbent one (JMS 2013:10), so all of its benefits and costs are uncertain.

In the JMS model, unitary states make institutional choices rationally and strategically, purposefully using, selecting, designing and redesigning governance institutions in ways that advance their joint interests. However, states do not possess the “synoptic” rationality of classic rational choice and “rational design” theory. Rather, states are boundedly rational: it is costly for them to gather information and make decisions, because of the complexity of the world and their own cognitive limitations (Keohane 1984:111).

Boundedly rational states cannot compare the costs and benefits of all available institutional options, and thus cannot make optimal institutional choices. Rather, they act as “satisficers,” economizing on information by accepting governance solutions that are “good enough” (JMS 2013:7, 31-33). States consider choices that involve significant costs, risks and uncertainty only when they see the status quo as “clearly inadequate” (JMS 2013:7) – in Herbert Simon’s words, when the institutional status quo falls below their “aspiration level” (Simon 1972:168).

Instead, in the JMS model, states consider the four institutional choice strategies sequentially, beginning with the lowest-cost, lowest risk option USE. They will adopt this strategy – even where a superior institution is available – unless they conclude that the performance of the incumbent focal institution will be clearly deficient. JMS do not theorize what constitutes satisfactory performance, or under what conditions institutions will perform satisfactorily. They simply assume that “satisficing” states will stick with the incumbent institution so long as it meets some “minimum threshold requirement for acceptability” (JMS 2013:7).
If the incumbent institution does not meet states’ aspiration level, they will move away from
the status quo in incremental steps. They will next consider SELECTING another incumbent
institution. Only if none appears likely to perform satisfactorily will states consider incurring
the additional costs and risks of CHANGE. And only as a last resort will they consider the
even more costly and risky decision to CREATE a new institution to replace an incumbent –
“typically after systemic breakdown or in the face of a major crisis” (JMS 2013: 10).

JMS make important contributions to understanding institutional choice, and we build upon
their work. Their approach cannot, however, satisfactorily address choice in the presence of
LCIs, because it theorizes states’ institutional choices almost wholly in terms of treaty-based
institutions (JMS 2013:26). To be sure, JMS claim to “consider public-private or private
governance schemes” (JMS 2013:26), and do so empirically in analyzing global accounting
governance (JMS 2013:Ch. 6). However, while they identify some benefits of particular
private institutions (Id.:178), they do not integrate these considerations into their theoretical
model. JMS implicitly assume that the same benefits, costs and risks attach to all types of
institutions.

Some scholars have considered the conditions under which states are likely to choose a
particular institutional form in preference to a treaty-based institution. This is true of the
literature on informal institutions, discussed above. Eilstrup-Sangiovanni (2009) likewise
compares the governance benefits and limitations of TGNs to those of treaty-based
institutions. However, a broader theoretical approach is needed to incorporate the proliferation
of diverse institutional forms – including IIGOs, TGNs and institutions with non-state
members – into the logic of institutional choice.

**IV. Modifying the logic of institutional choice**

In this section we theorize how the logic of institutional choice varies if LCIs as well as
treaty-based institutions are available to states as options. Modifying the institutional choice
logic in this way is essential to explaining why institutions such as IIGOs, TGNs and TPPPs
have proliferated.

    A. Bounded rationality

In the JMS model, states are boundedly rational. They rarely even consider options other than
USING an incumbent focal institution; CREATING a new institution is a rare event. How,
then, can states have established so many LCIs?
Even in the JMS model, states must assess the likely effectiveness of an incumbent focal institution against their threshold of acceptability; they must make even more complicated comparisons if they move further down the decision tree. Comparing another familiar and salient institutional alternative demands few additional cognitive resources. While LCIs were at first unfamiliar, over time they have become increasingly familiar to state officials and other actors, through experience and observation. By now, their low formation, operating, change and exit costs, and their governance benefits and limitations, are well-known. Thus, LCIs have become salient institutional options, offering easily-compared packages of benefits, costs and risks. To be sure, a new example of a familiar form is still more uncertain than a familiar example of a familiar form (an incumbent institution). Yet normalization of LCIs steadily narrows the gap.

We conjecture, then, that learning will further increase the desirability of LCIs over time: in areas where states have significant experience with LCIs, they will become increasingly likely to create additional LCIs. Suggestive evidence appears in international finance, where almost all sub-fields (e.g., banking, insurance, securities) are now governed by TGNs, steered by the G20, an IIGO; and in environmental policy, where – after a 2002 sustainable development summit encouraged formation of TPPPs – states negotiating on climate change turned to TPPPs as well (Abbott 2018).

In addition, states’ minimum threshold of acceptable performance is not immutable; it is socially constructed and thus dynamic. More precisely, what states perceive as acceptable is “adjusted from time to time in response to new information about the environment” (Simon 1972:168). The emergence of LCIs allows states to continually observe and compare their performance, and to “learn by doing” through participation. As states recognize the governance outcomes LCIs can produce (in appropriate situations) at low cost and risk, instead of or together with treaty-based institutions, they may adapt their aspiration level.

At the same time, increasing gridlock in treaty-based institutions (Hale et al. 2013) makes treaty-based institutions less able to meet states’ threshold of acceptable performance, as in the climate change example. As CHANGING treaty-based institutions is relatively costly and risky, CREATING LCIs becomes increasingly attractive.

More fundamentally, JMS’ view of bounded rationality is challenged by the empirical observation that states frequently do abandon the institutional status quo, creating new

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8 JMS acknowledge that after an initial period of USING a new institution, states may gain familiarity with it (JMS 2013:??).
institutions in pursuit of superior outcomes. The literatures on soft law and informal institutions, among others, build on this observation, emphasizing that states seek institutional opportunities to achieve their goals more effectively, at lower costs and with fewer constraints (Lipson 1991; Abbott and Snidal 2000; Vabulas and Snidal 2013). For instance, states concerned with chemical and biological weapons proliferation created the Australia Group (AG) (an IIGO), in which technical experts could coordinate national export controls – even though the chemical and biological weapons treaties remained in force and the Organization for the Prohibition of Chemical Weapons (a treaty-based institution) was created. The AG provided greater flexibility, lower transactions costs and fewer constraints, and facilitated interactions among technical experts in governments (Vabulas and Snidal 2013:214-217).

As this case suggests, states often create LCIs to complement incumbent institutions, not to replace them, as JMS assume. In an example sketched in the introduction, states concerned with money laundering concluded that it was necessary to transform how national bureaucracies regulate domestic as well as transnational financial transactions; incumbent institutions such as the IMF, OECD and regional security organizations were viewed as unable to accomplish this (Hameiri, Jones and Sandor 2018). Accordingly, states created the Financial Action Task Force to supplement those treaty-based institutions.

In another example from the introduction, the G7 states created the Financial Stability Forum (now Financial Stability Board) (a TGN) in 1999, even though the IMF, IBRD, OECD and other treaty-based institutions were available. The G7 sought to maintain the strengths of the incumbent institutions (avoiding CHANGE), while creating a new institution to compensate for their specific weaknesses, including fragmentation and a lack of opportunities for frank interactions among senior policymakers (Clarke 2014).

Historical institutionalists describe such processes as “layering” (Streeck and Thelen 2005:22-24), a common strategy where actors seek institutional change but face “legislative gridlock” (Thelen 2003). On one hand, layering can “accommodate and in many ways adapt to the logic of the preexisting system” (Thelen 2003: 226). On the other hand, it can change “the ways in which the original rules structure behavior” and may alter the logic of the incumbent institution or compromise its reproduction (Mahoney & Thelen 2010: 16).

The “cross-institutional political strategies” (Alter and Meunier 2009) that states use to achieve more effective governance and further their distributional goals provide further evidence that states frequently abandon the institutional status quo. States engage in forum-shopping, bringing issues before forums in which they anticipate decisions in line with their
preferences (Busch 2007). States engage in *regime shifting*, moving jurisdiction over particular issues to institutions with favorable principles and priorities (Helfer 2009). States create *strategic inconsistency*, developing new rules in one forum to undercut existing rules in another (Raustiala & Victor 2004; Morse & Keohane 2014). And states engage in *competitive regime creation*, establishing new institutions to challenge the institutional status quo (Urpelainen & van de Graaf 2014). These strategies often involve CREATION or CHANGE in treaty-based institutions. To be sure, JMS are aware of these strategies, but expect them to be used only rarely, when states are deeply dissatisfied with the institutional status quo. More systemic empirical evidence on their prevalence would help clarify the apparently inconsistent implications of these literatures.

B. Modifying the logic of choice

Like JMS, we assume that states (and other actors) make collective institutional choices on a rational, strategic basis, within the limits of bounded rationality. As Vabulas & Snidal (2013:196) put it, “from a positive perspective, the choice of institutional form depends on the incentives and goals of the actors.” States (and other actors) compare the anticipated benefits, costs and risks of the incumbent institution, if any, with those of other familiar and salient choices. This comparison relates both to addressing the cooperation problem at hand and to actors’ distributive goals. Thus, states and other actors seek an easily identified “package” of benefits and costs that best meets their needs.

In sub-section (1), we follow JMS in treating states as unitary actors. We utilize this simplified framework heuristically to facilitate consideration of the effects of low institutional costs. In sub-section (2), we relax the unitary state assumption, expanding the lens to include additional political actors internal and external to the state. We focus on the proponents of international cooperation, who attempt to persuade states to engage in transnational cooperation, in particular substantive and institutional ways.

1. Unitary states

How does the availability of LCIs change the institutional choice calculus of states? While JMS argue that states CREATE a new institution only when “there is no other choice” (JMS 2013:48), we suggest that the availability of LCIs as institutional options can modify states’ choices at three different points in the JMS model, as shown in Figure 2. These modifications all make CREATION (of LCIs) more likely.
Figure 2. Modified Choice Sequence
**Situation (1)**

It bears repeating that LCIs create many of the general governance benefits associated with treaty-based institutions: they reduce transaction costs, mitigate asymmetric information, enable working relationships among officials and build reputations, establishing relatively stable expectations about actor behavior (Keohane 1984) – all at significantly lower costs, on average. LCIs also provide specific benefits, including reduced risk, malleability, flexibility and engagement with non-state actors.

Against this backdrop, we begin with situation 1 on the left side of Figure 2. A decision to CREATE a new LCI may simply be a better fit for the cooperation problem at hand – substantively and/or politically – than a decision to USE or SELECT an incumbent treaty-based institution, given their respective costs and risks, governance benefits and limitations.

First, an LCI may be a better *substantive fit* for the problem. As noted above, LCIs are in some respects weaker than treaty-based institutions: they cannot adopt legally-binding rules and lack capacity for strong monitoring and enforcement. However, where *costs* are salient to those making institutional choices, LCIs’ lower costs of formation, operation, change and exit may more than offset these limitations, making them attractive institutional choices. Material costs, such as formation and operating costs, are salient where states face significant budget constraints. Political costs, such as sovereignty and exit costs, are salient where issues are highly sensitive politically, domestically or internationally.

Similarly, where *risks* are salient, LCIs’ low sovereignty, change and exit costs will be appealing, as these reduce many types of risk. Risks are often salient during processes of institutional CREATION or CHANGE, when the outcome of negotiations, the future effectiveness of the institution and its ability to constrain states are all uncertain. Risks are also salient in other situations of uncertainty: e.g., where one’s own current and future preferences and those of others are difficult to determine; where the nature of the problem and the suitability of potential solutions are not fully understood; and where significant sovereignty costs are possible.

While the inability of LCIs to create credible commitments limits their usefulness in addressing dilemmas of common *interests*, their *general governance benefits* make them appropriate for addressing dilemmas of common *aversions* (Stein 1982). These include *coordination* problems as well as *cooperation* problems not characterized by strong incentives to cheat. In addition, LCIs’ specific governance benefits make them particularly suitable for addressing highly dynamic problems, which require substantial flexibility; and problems best
addressed by engaging or influencing non-state actors, including government agencies and private business firms. Such problems arise in many issue areas, from low to high politics, even in security, as the Australia Group case demonstrates. Moreover, the very features that make LCIs relatively weak are advantageous in certain situations: for example, non-binding norms are beneficial where actors do not know which policies or norms are appropriate, and experimentation or trial-by-error approaches are required.

LCIs are well-suited to situations in which governance interventions must be nuanced, finely-tuned to problem characteristics and contextual conditions. LCIs can be structured (at low cost) with an extremely wide range of membership structures (state and/or non-state), normative commitments, bureaucracies, decision procedures and other features (see, e.g., Abbott, Kauffmann & Lee 2018; Vabulas and Snidal 2013). This malleability increases not only LCIs’ substantive fit for complex problems, but also their political fit: by offering more diverse and nuanced approaches, LCIs help proponents gain consensual support.

Despite (or because of) their non-state membership, LCIs that include national regulators (TGNs) or private actors (TPPPs) may be perceived as more legitimate than inter-state institutions. Technical expertise and professional norms give TGNs epistemic legitimacy in addressing technical problems. Participation by affected citizens, or organizations representing them, bestows democratic legitimacy on TPPPs (Bäckstrand and Kuyper 2017).

LCIs allow states to bypass specific weaknesses or bottlenecks in existing institutions. For example, where an incumbent institution has costly decision procedures, cooperating states can move particular issues from it to an LCI, with low formation costs, which can handle those issues at lower operating cost (Vabulas and Snidal 2013:212). This might be advantageous, for example, where states anticipate a need for frequent tinkering with technical rules. Here again, states engage in layering: adding a new LCI to an incumbent treaty-based institution, and creating a functional division of labor that provides for peaceful coexistence or mutual reinforcement between them (Gehring & Faude 2014).

In all of these cases, while LCIs have low costs, USING or SELECTING incumbent treaty-based institutions may have unusually high costs, as it may be necessary to adopt and implement new and unfamiliar modes of governance; in effect, the real choice is CHANGE, a much costlier option.

In sum, where transboundary cooperation need not be deep, and where the specific governance benefits of LCIs are salient, they will often be the first-best institutional choice; states need not even consider USING, SELECTING or CHANGING an incumbent treaty-
based institution. Where a transboundary problem does demand deep cooperation, LCIs can only be a second-best solution. Still, if gridlock prevents incumbent institutions from addressing the problem, LCIs facilitate greater and more effective cooperation than would be possible in their absence.

Second, an LCI may be a better political fit for the problem at hand. LCIs impose only relaxed constraints on states. For cooperation problems involving strong incentives to defect, this is a significant limitation. In many situations, however, states concerned with sovereignty and decisional autonomy regard it as a political advantage. States that create an LCI “can (at least partially) achieve their governance goals while keeping [international institutions] relatively weak” (Abbott et al. 2015:378).

A subset of cooperating states may find it politically advantageous to shift issues from a treaty-based institution to an LCI, to advance their distributional concerns or reinforce their power position (compare JMS 2013:24-25; see Stone (2011) for similar strategies within institutions). For example, powerful states may shift fundamental issues, or issues particularly important to them, to an LCI they control to avoid multilateral decision processes (Morse & Keohane 2014). This form of layering enables dissatisfied states to work around the institutional status quo in a way that its defenders cannot block (Thelen 2003:226; Mahoney & Thelen 2010).

Similarly, states that support particular forms of cooperation can create a new LCI to (at least partially) bypass defenders of the institutional status quo. While an IIGO, TGN or TPPP may be more or less effective than a willing and able treaty-based institution, it is almost certainly more effective than an institution that is blocked by gridlock from taking action (Hale et al. 2013). Shifting issues in this way resembles contested multilateralism (Morse and Keohane 2014): states create a new forum in which their preferences will prevail; even the threat of such an action can pressure the incumbent institution to modify its procedures or policies.

LCIs are attractive for these strategies because of their low formation and operating costs and their weaker constraints (low sovereignty and exit costs). For example, to guide the international finance regime complex, powerful states layered the G20 over incumbent treaty-based institutions, such as the IBRD and IMF, and TGNs (Viola 2015).

Situation (2)

Moving to the right in Figure 2, when states CREATE a new LCI, it need not replace an incumbent institution, as JMS assume. Instead, states can layer the new LCI over the
incumbent institution, operating as a low-cost form of CHANGE. The formation and operating costs of the LCI are low, and it does not interfere with the activities or procedures of the incumbent institution (JMS 2013:46). But the LCI can add to the incumbent institution new authorities, new modes of operation, different participants and other features, improving governance effectiveness.

Indeed, layering an LCI over a treaty-based institution may offer more nuanced governance options than CHANGE in the incumbent institution, given the greater malleability of LCIs. For example, the UK government, with other governments and private partners, launched the Renewable Energy and Energy Efficiency Partnership (REEEP) in 2002. By layering this TPPP over the Framework Convention on Climate Change, these actors emphasized particular issues within the scope of the Convention; rendered the Convention more effective; and introduced new modes of governance, including working with sub-state and non-state actors, operational projects, private finance and experimentation – all with low formation and operating costs and the legitimacy of stakeholder engagement.

To be sure, states cannot accomplish every kind of CHANGE by layering LCIs over treaty-based institutions. It is difficult, for example, to restrict a treaty-based institution’s authority or modify its decision procedures. But layering LCIs may allow participating actors to bypass existing procedures for particular issues, and can accomplish many other kinds of change. CREATING an LCI often involves lower costs than CHANGING a treaty-based institution: transactions costs and domestic approval costs are lower; uncertainty over the outcome of negotiations and the effects of institutional change are reduced, as the existing institution continues in its current form; and the LCI poses limited sovereignty costs by virtue of its weak institutionalization and low exit costs.

Situation (3)

Finally, toward the right of Figure 2, boundedly rational states may sequentially consider the options to USE, SELECT and CHANGE an incumbent institution, but determine that none of those options is satisfactory. At that point, CREATING an LCI may be more attractive than CREATING a new treaty-based institution: formation and operating costs are lower; an LCI creates fewer sovereignty costs; change costs are also lower, and states can more easily exit, reducing risk. In addition, the LCI will neither change nor replace any incumbent institution. Depending on the nature of the problem, the LCI may offer sufficient governance capabilities to meet states’ aspiration level, especially considering costs. Even more frequently, CREATING an LCI will be more attractive than the only other alternatives: leaving a
cooperation problem unaddressed or entrusting it to an institution already found to be unsatisfactory.

2. Non-state proponents

The unitary state assumption is a valuable simplification for many purposes, such as explaining states’ choices between treaty-based institutions and IIGOs (Lipson 1991; Vabulas & Snidal 2013), or between hard and soft law (Abbott and Snidal 2000). In fact, however, bureaucratic and societal actors almost always act as proponents and supporters (or opponents) of transnational cooperation, persuading states to act in certain ways. We assume these actors are motivated both by substantive concerns for addressing cooperation problems effectively and by their own organizational interests. Considering their actions is important, especially in connection with institutions such as TGNs and TPPPs, which involve non-state actors as direct participants. Doing so brings the domestic politics of institutional choice center stage along with its costs and benefits.

Consider TGNs. In a world with only treaty-based institutions, a government agency concerned with a problem involving, say, pharmaceutical regulation might see a need for international cooperation. In this world, its only option would be to persuade “the state” – in the person of ministerial or high executive officials, and often the legislature – to take up that problem and negotiate with other states: to USE, SELECT or CHANGE an incumbent treaty-based institution or CREATE a new treaty-based institution to address the problem.

The agency would certainly be concerned with domestic approval costs, and with its own role in the collective response – e.g., its position on the state delegation to the institution – as well as with the effectiveness and costs of that response. Transactions costs, sovereignty costs and uncertainty would be indirectly relevant, because they influence the state’s willingness to take up the problem, as well as its negotiations. But the agency would have a relatively small stake in the precise form of the institution.

Yet the world no longer includes only treaty-based institutions. As the New Interdependence Approach (NIA) suggests, globalization has created “new political channels […] to forge alliances across countries and across levels of transnational and international actors” (Farrell and Newman 2016:716). As a result, non-state and sub-state actors increasingly participate in the “politics of NIA” by building transnational institutions not based on treaties – what we call LCIs – to achieve their goals (Farrell and Newman 2016: 722-723).

9 In addition, domestic agencies must agree to participate in TGNs, and private actors must agree to participate in TPPPs.
Where LCIs are available, the agency’s opportunities and incentives change. While it will still be concerned with obtaining transnational cooperation and with its effectiveness and costs, it now has a strong organizational incentive to favor CREATION of a particular type of institution, a TGN, which will give it a direct role in global governance, often with limited oversight by ministerial, executive or legislative officials. A decision by states to sponsor creation of a TGN will empower the agency, as a side effect of addressing the substantive problem; this side effect may be of limited concern to the state, but it is a central interest of the agency.

The agency thus has an incentive to persuade the state to sponsor a TGN, rather than to USE or SELECT an existing treaty-based institution (situation 1 in Figure 2), even when the incumbent institution is reasonably effective. It may likewise champion a TGN at other points in Figure 2: as an alternative to CHANGING an existing treaty-based institution or CREATING a new one. The low domestic approval costs of TGNs facilitate the agency’s efforts, while their low transactions and sovereignty costs are important selling points in its efforts at persuasion. TGNs differ from other LCIs in that agencies may be able to create a TGN on their own, with minimal or no state approval; this may strengthen their ability to gain state sponsorship.

Similar incentives apply to private actors and TPPPs. In a world with only treaty-based institutions, NGOs, business groups and other private proponents of transnational cooperation could only lobby states to take up an issue and negotiate an inter-state solution. Where LCIs are available, though, private proponents can persuade states to join them in a TPPP, and they have a strong incentive to press for this option, as creating a TPPP will empower them through direct participation. Private proponents may even press states to create a TPPP rather than (or in addition to) USING or SELECTING an incumbent treaty-based institution, in which they would play limited roles. Here too, low domestic approval costs make the proponents’ work easier, while low transactions and sovereignty costs are important selling points.

The influence domestic agencies and private actors have on states’ institutional choices undoubtedly varies across states, proponents and issues. But these actors have important sources of persuasive power. Specialized government agencies, in particular, are typically thought to know better than other state officials how to address technical problems within their fields of expertise; states rely on their expertise to reduce uncertainty (JMS 2013:32). Agencies also frequently interact with their counterparts in other countries, so their
assessments of the costs and effectiveness of transgovernmental cooperation are likely to be influential (Slaughter 2004). In addition, by proposing creation of a TGN, agencies offer to take responsibility for a problem; other governmental bodies, with limited resources, will often be pleased to take them up on their offer. Private actors have similar, if somewhat weaker, persuasive advantages. Most importantly, however, the availability of LCIs gives these actors a strong incentive to favor those institutional forms, changing the domestic politics of institutional choice.

C. Implications

1. Status quo bias and gridlock

Our theory suggests that the availability of LCIs as institutional options reduces the status quo bias of global governance, making decisions to CREATE (LCIs) more likely than JMS suggest. An observable implication is the proliferation of IIGOs, TGNs and TPPPs, which presents a puzzle for the prevailing logic. As noted at the outset, this implication already has strong empirical support.

States establish or sponsor LCIs in situations where they are better fits for the cooperation problem at hand, substantively and/or politically, than treaty-based institutions; where they allow states to fine-tune and modify the terms of cooperation, independently or when layered over existing institutions; and where they offer a superior balance of benefits and costs than the institutional alternatives. These advantages are especially important when actors seek to address coordination problems, or cooperation problems with relatively weak incentives to defect, as well as in dynamic issue areas, where new issues arise, existing issues change or are reframed, and issues rise and fall in salience.

This suggests that LCIs offer pathways for states to at least partially overcome the dysfunctional procedures and gridlock that characterize many treaty-based institutions (Hale et al. 2013). Whether they are the first- or second-best solution, LCIs allow states (and other actors) to bypass burdensome decision procedures; modestly CHANGE incumbent institutions; and increase consensual support for cooperation by fine-tuning governance to specific problem characteristics, contextual features and political sensitivities. In addition, states and governance actors seeking stronger collective action can avoid opponents and veto players by shifting issues to LCIs.

Further, the availability of LCIs creates political incentives for government agencies (for TGNs) and private actors (for TPPPs) to press for their creation. The expertise and experience
of these actors gives them substantial persuasive influence on state decisions. Thus, the availability of LCIs changes the politics of institutional choice in the direction of more institutional creation, providing an even greater impetus to overcome status quo bias.

2. Institutional composition

Inherent in the status quo bias identified by JMS is the assumption that the types of institutions that have dominated international governance will remain dominant: states will use, select or change incumbent treaty-based institutions, and will occasionally replace them by creating other treaty-based institutions. Our theory, in contrast, suggests that the availability of LCIs will change the composition of global governance institutions over time to include an expanding proportion of IIGOs, TGNs and TPPPs. Again, this implication has strong empirical support (Abbott, Green and Keohane 2016; Vabulas & Snidal 2013; Westerwinter 2016). We also conjecture that increased familiarity and salience will facilitate further growth. Over time, we would expect that LCIs will reduce the focality of treaty-based institutions as a class, as well as the focality of individual institutions (see, e.g., Hanrieder 2015).

3. Empowering non-state actors

LCIs such as TGNs and TPPPs empower non-state participants by giving them direct roles in governance, thereby incentivizing non-state actors to press for the establishment of LCIs. Even apart from this incentive effect, empowerment through LCIs has changed the patterns of authority in global governance and its actor composition, in parallel to changes in institutional composition: direct participation by non-state actors has expanded dramatically. Given the proliferation of TGNs and TPPPs, LCIs appear to have been more responsible for these new patterns of authority and participation than has state delegation to non-state actors (Green 2018), and as responsible as the entrepreneurial activities of non-state actors (Green 2014; Abbott and Snidal 2009).

4. Expanding governance options

LCIs are highly malleable, providing states and other actors an expanded palette of governance options. IIGOs, TGNs and TPPPs all have unique combinations of general and specific governance benefits and limitations, as well as low costs of formation, operation, change and exit. LCIs have at least as diverse a range of institutional characteristics as do treaty-based institutions. And LCIs are more flexible than treaty-based institutions, so they
can be more easily modified as circumstances or demands change or current arrangements prove unsatisfactory.

LCIs thus allow state and non-state actors to fine-tune their governance arrangements to the substantive and political characteristics of particular problems, and to modify those arrangements as problem characteristics and substantive or political conditions change. The possibilities for layering further expand the palette. Over time, the emergence and differentiation of LCIs as complements and alternatives to treaty-based institutions should facilitate more effective global governance, while producing a far more complex and variegated institutional system.

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