

A Comparative Perspective on Informal Governance in Germany and Russia

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8 June 2011

Abstract

Regulators have different formal governance instruments at their disposal, such as laws, statutes, orders, contracts etc. But to meet their formal tasks regulators also apply informal instruments. These instruments are legally non-binding, display an exchange pattern, and replace or supplement formal instruments.

Two cases from Germany and Russia, representing typical informal agreements between government and private actors, are described and analyzed. Concepts of formal and informal organizations, and of structural-functional systems theory are used to explain the conclusion and effectiveness of informal agreements.

A major factor to account for the use and effects of informal governance are informal principles or paradigms concerning the relationship between state and society which are based on traditions and on general beliefs and attitudes. The paradigm of “the ensuring state” prevails in Germany while in Russia a paradigm reflects the relationship between government and private actors which we call “the paradigm of providing state plus providing capitalism”. The two paradigms and their effects on informal governance are analyzed and compared on the basis of the two case studies.

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1. Introduction

The modern state has often been referred to as “regulatory state”. There are different definitions of this phenomenon. The basic features of the regulatory state are the idea of the market economy based on competition among companies, where the state is “steering” the economy rather than “rowing” by itself. Independent regulatory agencies are established to oversee the regulated companies. The USA and Britain are the most prominent examples of such modern regulatory states. The European Union also displays features of a regulatory state (Yeung 2010, 71 ff.).

Germany has often been contrasted to regulatory states like USA or Great Britain. Its regulatory culture is based upon different principles such as pursuit of common welfare over market competition, division of responsibility between state and private actors through enhancing self-regulatory capacities of society. It was labelled an “ensuring state” with “shared responsibility” between state and society for the common good (Schuppert 2003, 55; Bohne/Bauer 2011). The state itself does not deliver public services. The state only intervenes and provides services when private actors fail to deliver them.

In the regulatory state discussion which typically concentrates on western democratic countries with strong legal traditions, Russia is a rather unknown location. Liberalization and free market economy were the ideals of Yeltsin’s presidency in the 1990s. Under Putin, Russia continued the liberalization policy. Since 2003 however some “strategic” areas were re-nationalized (Pappè/Galuchina 2009, 159 ff.).

All western-type regulatory states are based on a market economy, and share liberal values. But there are a range of practical problems besides this normative picture. The typical problems are the following ones:

1. Regulators need sufficient information to make good regulations: “Information is the lifeblood of regulatory policy.” (Coglianese et al. 2004, 1).

2. Setting and implementation of policies can be highly cost-intensive.
3. There are usually enforcement deficits.

Such problems lead regulators to pass even more and stronger regulations in order to be more effective. Thus, a paradox situation emerges. On the one hand, the state attempts to create a strong market economy based on fair competition and protected individual rights. On the other hand, it believes that it needs to set more and more detailed regulations. As a result the regulatory framework gets more complex and extensive. Companies consider this situation increasingly as a burden because costs increase. Companies complain of overregulation and call for deregulation.

Under such dissatisfying circumstances for all parties alternative governance practices occur. As a reaction to the outlined problems of regulation, these practices often emerge due to the urgent needs of agencies and are often of a pragmatic nature. Agencies apply alternative governance instruments instead of formal rules.

This practice is called informal governance as an alternative mode to the command and control instruments like formal laws, directives, statutes etc.

In this article, we will first describe two examples of informal governance in Germany and Russia. We will show that one of these cases was effective and the other one failed. We will attempt to outline the factors which were probably responsible for their effectiveness/ineffectiveness. Then we will try to draw some generalizations from the comparison between the two cases. Are there distinctive characteristics of informal governance in both countries? Are there any general variables which are critical for effectiveness or ineffectiveness of the informal governance? Why do agencies and companies use informal governance strategies? How can it be explained? Finally, what kind of typical problems may arise?

2. Informal Governance in Germany

2.1 Recycling Agreement Between Government and Industries

2.1.1 Decision background

Packaging waste makes for some 50 % of all household wastes. Beverage containers represent a considerable share of packaging wastes. A way to reduce the amount of packaging wastes is the establishment of multi-cycling systems for refillable beverage containers. These systems have a long tradition in Germany for beer and carbonated beverages, and covered between 80-90 % of these beverages in the 1970s. However, there is a trend towards non-refillable beverage containers which increases the amount of packaging wastes, and causes air and water pollution. The Federal Government was authorized under the Federal Waste Disposal Act to regulate the type and quantity of non-refillable containers on the market.

The beverage and container industry had an interest to prevent far-reaching reductions of non-refillable containers which represented a profitable market for the producers of beverages and beverage containers. The government wanted to prevent further erosion of the existing multi-cycling system for refillable containers.

In 1977 and 1987, the beverage and container industries and the Federal Environment Ministry reached two voluntary recycling agreements (henceforth recycling agreement).¹

2.1.2 Actors

Figure 1 shows the actors of the recycling agreement.

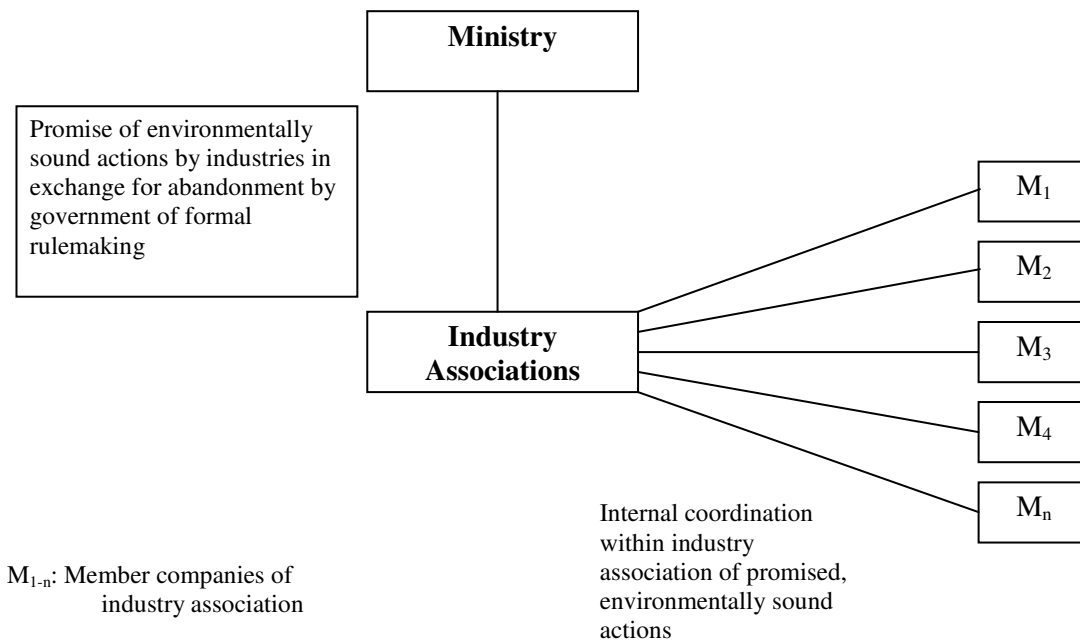
Parties to the agreement were the Federal Environment Ministry and 12 federal and regional associations of industries whose members were hundreds of producers of beer, non-alcoholic beverages and beverage containers. The interests of these producers were very

¹ For details see Hartkopf/Bohne (1983, 451 ff.), Knebel et al. (1999, 426 ff.).

diverse. Regional companies were more interested in maintaining multi-cycling systems for refillable containers, while companies operating nation- or EU-wide considered non-refillable containers more profitable than multi-cycling systems.

Environmental and consumer organizations were not involved.

Figure 1: Actors of Recycling Agreement



2.1.3 Content

Industry associations promised inter alia to make their members maintain the existing multi-cycling systems of refillable containers for beer and carbonated beverages, and to report annually on the implementation of measures for the stabilization of the multi-cycling system.

The ministry promised to refrain for the time being from introducing mandatory deposit systems and quantitative restrictions for non-refillable beverage containers.

The agreement was not legally binding. Both sides did not want to enter contractual obligations. The ministry kept the option to issue regulations any time it deemed politically

necessary. Industries wanted to preserve their flexibility to meet possible market demands for beverages in non-refillable containers. Consequently, the agreement could not be legally enforced. Its breach triggered no legal sanctions.

2.1.4 Form

The voluntary agreement was the results of intensive negotiations. Industries made their promises orally at public hearings. These promises were recorded in the minutes of the hearings. The Environment Ministry also informed the public on the agreements through numerous press releases and announced its intention to refrain from regulations for the time being.

2.1.5 Results

Industries did not keep their promises. The multi-cycling system for refillable beverage containers further declined. Main causes for the failure of the agreement are said to be the large number of producers of beverages and beverage containers with conflicting interests. Multi-cycling systems of refillable beverage containers are primarily regional, and meet the interests of small and medium enterprises serving regional markets. For large companies operating nation- and EU-wide, including foreign companies the multi-cycling systems are unprofitable.

2.2 Theoretical Framework

2.2.1 Theory of formal and informal organizations

2.2.1.1 *Formal organization.*

The public and private actors of the recycling agreement are formal organizations. The concept of formal organization (Gross 1968, 198 ff.; Scott/Davis 2007, 22 f., 37 ff.) depicts collectivities which

- have organizational objectives, structures and procedures laid down in written documents such as company agreements, contracts, bylaws, statutes, regulations etc.,
- consist of individual and/or collective members,
- coordinate the activities of members through formal structures and procedures in order to achieve their formal objectives,
- seek to maintain their organizational patterns and to ensure their organizational survival, and
- are established to exist for some time (thus excluding spontaneous ad-hoc collectivities).

2.2.1.2 *Informal organization.*

The concept of informal organization (Gross 1968, 238 ff.; Scott/Davis 2007, 23 f, 62 ff.) denotes the structures, procedures, rules and interactions of organization members which are not captured by formal organizational objectives, structures, and procedures and which constitute alternatives, modifications, or supplements to the formalizations of an organization.

There is a consensus in organization theory that informal organizations are the inevitable consequence of organizational formalizations (Barnard [1938] 1976, 114 ff.; Gross 1968, 239 ff.; Scott/Davis 2007, 62 f.). This is because formal structures, procedures and informal rules of organizations often prevent certain organizational needs to be met while these needs can be accommodated through informal structures, procedures and informal rules.

Furthermore, the elements of informal organizations allow organization members to pursue their individual objectives even if they are contrary to formal organizational objectives.

Finally, informal rules like conventions and codes of behavior, customs and traditions reduce complexity and contribute to the stability of an organization even if formal structures and procedures are changed (North 1990, 4 ff.).

There is no generally accepted definition of informal organization. However, the characteristics used to describe informal organizations can be summarized in three categories.

Informal structures, procedures and rules

- are usually not documented in writing, legally non-binding, and cannot be formally sanctioned in case of violations,
- reflect an exchange pattern, and
- represent an alternative, modification, or supplement to formal structures, procedures and rules.

The concept of informal organization has been developed to describe and explain intra-organizational interactions. It can also be applied to inter-organizational relations because these relations tend to be highly formalized by contracts, bylaws, statutes and regulations. The application of the concept of informal organization to the recycling agreement falls into this category.

2.2.2 Concepts of structural-functional systems theory

2.2.2.1 *Open social systems.*

Formal organizations can be viewed as open social systems because they interact with their environment, and their self-maintenance is based on these interactions (Katz/Kahn 1978, 20 ff.; Scott/Davis 2007, 95). Groups of formal organizations constitute open social systems if the former are interconnected by interactions with the same meaning as reference point like the recycling issue of the interaction system shown in Figure 1. These interaction systems are formalized to the extent that interactions are governed by formal rules based on contracts,

bylaws, regulations etc. In the case of the interaction system in Figure 1 there was the Federal Waste Management Act which contained provisions for the maintenance of recycling systems.

2.2.2.2 *Systems problems and functions.*

Everyone who has worked in a formal organization knows that organizations do not only seek to achieve their formal organizational objectives but also have to cope with problems of self-maintenance. These problems include:

- avoiding and resolving internal and external conflicts,
- allocating scarce resources,
- coping with information deficits,
- handling demands from the environment on the organization.

These problems are not unique to formal organizations but are characteristics of any open social system.

Structural-functional systems theory analyzes (Selznick 1948, 28 ff.; Burrell/Morgan 1979, 152 ff.; Scott/Davis 2007, 80 ff., 88 ff., 95 ff.)

- how and to what extent formal structures, procedures and rules contribute to the solution of these systems problems, and
- whether and to what extent there are functionally equivalent alternatives to formal systems structures, procedures and rules.

In modifying Parson's typology of social systems functions (Scott/Davis 2007, 77) systems functions to be met when resolving the aforementioned systems problems are summarized in Table 1.

Table 1: Systems Problems and Systems Functions

Problems	Functions
Carrying out organizational tasks effectively	Achievement of organizational objectives
Resolving internal and external conflicts	Integration
Allocating scarce resources	Resource efficiency
Coping with information deficits	Reduction of complexity and uncertainty
Handling environmental demands	Adaptation

Structural-functional systems theory assumes that social systems seek to survive and to meet the systems functions listed in Table 1. Thus, the intentions of systems members to resolve said systems problems are factors that help explain systems interactions.

2.3 Explaining the Recycling Agreement

2.3.1 Informal characteristics

The recycling agreement displays the characteristics of informality mentioned sub 2.2.1.2. The agreement is no contract but a legally unbinding understanding. The Environment Ministry and the associations of beverage and container producers did not want to enter legal obligations but sought to keep their options open for the future.

The agreement reflects an exchange pattern. The associations promised to maintain the multi-cycling systems for refillable beverage containers. In return, the ministry refrained from regulations for the time being.

Functionally, the agreement represented an alternative option to regulations under the Federal Waste Management Act.

2.3.2 Factors triggering the conclusion of the agreement

Which factors triggered the conclusion of the agreement?

One set of factors which led to the conclusion of the agreement were the individual interests of the parties concerned. The ministry wanted to stabilize the multi-cycling system for refillable beverage containers but met with political opposition to regulate the system. Thus, concluding the agreement was a convenient way out of the political impasse. Similarly, the beverage and container industries wanted to preserve their economic flexibility and to avoid strict regulations. Therefore, they sought an agreement with the ministry.

Furthermore, there is an unwritten informal principle or paradigm influencing government-industry relations in Germany. This paradigm is called the “ensuring state” which suggests that socio-political problems should be primarily resolved by self-regulations of private actors. The government takes the role of a moderator and refrains from direct interventions whenever possible. However, when self-regulations fail government has to intervene and “ensure” that public interests are met. The recycling agreement was in line with the paradigm of the ensuring state.

Finally, the recycling agreement was a way to cope with information deficits and with scarce personnel and administrative resources. The ministry did not have all the necessary information to design effective regulations, and to assess all their possible impacts on the environment, the job market, the development of prices for beverages etc. Most of this information was controlled by the beverage and container industries, and withheld in order to prevent regulations. Thus, the agreement helped to overcome regulatory information deficits, and to reduce complexity.

Likewise, a consensus-oriented approach helped to minimize resource scarcity. Passing formal regulations would have required more personnel and administrative resources from all parties than concluding an agreement.

2.3.3 Factors causing the failure of the agreement

Why did the recycling agreement fail?

The agreement did not meet several systems functions.

First, there were too many actors involved to effectively carry out the agreement to control its implementation.

Second, the interests of large, medium and small companies from the beverage and container industries were too divergent, and could not be integrated by the agreement.

Last but not least the technological and economic development of the beverage and container industries ran contrary to the maintenance of the multi-cycling system. Non-refillable beverage containers were more profitable for large market leaders than multi-cycling systems of refillable containers. In sum, the failure to meet basic systems functions caused the collapse of the recycling agreement.

2.3.4 Conclusions

Non-contractual relations in the form of informal agreements can serve as functional equivalence to formal regulations. Factors determining the outcome of these agreements include

- the interests of public and private actors,
- informal norms influencing the relationship between government and private actors,
- the capacity of agreements to meet systems functions like the achievement of organizational objectives, integration, resource efficiency, reduction of complexity, and adaptation to a rapidly changing environment.

3. Informal Governance in Russia

3.1 Agreements of the governor of Kemerovo Region with industries on social-economic partnership and with federal agencies on administrative cooperation

3.1.1 Decision background

In Soviet time, huge coal fields in the Siberian Kemerovo region were developed by the Soviet state companies. Around each developed coal field a town was built, where the workers lived with their families. The companies were the only employers in town, and the whole social infrastructure of the towns was run by these companies.

In 1990s, there was the first wave of privatization. The new private company owners pursued the politics of quick self-enrichment and largely ignored the rights of the workers (Urban 2010, 28). Several strikes of coal mining workers took place, giving the region the image of a permanently striking region in 1990s.

Since 1997, Aman Tuleev has been the governor of the Kemerovo region. His political goal was to achieve socio-political balance in the region, since the situation remained highly critical. The governor set certain rules for the competing companies which were willing to enter the regional coal and metallurgy markets. The most important informal rules for companies were to introduce industrial social policies and to co-finance regional social programs (Urban 2010, 31). Only those companies which were willing to collaborate with the government were allowed by the governor to obtain regional assets during the privatization process. In 2003, the privatization process was terminated. All new companies which had gained stock shares of the coal companies had to comply with the governor's politics of co-providing social services in the region (Urban 2010, 31; Olejnik 2010).

For achieving his formal economic and social tasks the governor needed large funds given the magnitude of the tasks. The regional taxes (asset tax, gambling tax) were not sufficient. The governor had no right to raise additional taxes.

The scarcity of financial resources led the regional administration of Kemerovo Oblast' to invent new forms of revenues, called "quasi-fiscal agreements" or "organized sponsoring" (Kurbatova/Levin 2010, 34; Sokolova 2007, 53). Since the late 1990s, the governor began to sign agreements on "social-economic partnerships" with all industries of natural resources (coal, metallurgy and chemical companies) which operated in the region.

On July 15, 2004, the governor reached a multilateral agreement "On common activities regarding the solution of social tasks and enhancement of the citizen's wealth" (Agreement 2004)² with the directors of nine coal companies operating in the region, and with the industry association "Siberian Business Council" which later on became a coal company, too. Additionally, the nine party companies signed a "Joint statement on the support of the governor's initiative on improving the responsibility of the state and of the business for the political and economical stability in the region" (Statement 2004).

In addition to that, there is some evidence pointing to a parallel tacit agreement that the governor reached with the most influential federal agencies like the Federal Service for Ecological, Technological and Nuclear Supervision (*Rostekhnadzor*),³ the Federal Tax Agency, and the Federal Labor Inspection. Especially the first agency is very powerful, since it not only can revoke the licenses and permits but also close a mine without court judgment.

There is a provision in the statutory order of the *Rostekhnadzor*, which says that the newly created agency fulfill his tasks "in a collaboration" with other federal agencies as well as with regional and local administrations.

² The text of the agreement is available on the website of the regional journal „Delovoj Kuzbass“ (“Business Kuzbass”, 8 August 2004) (Agreement 2004), <http://www.delkuz.ru/html/200408/02dokumenty.shtml> (access on 05-26-2011).

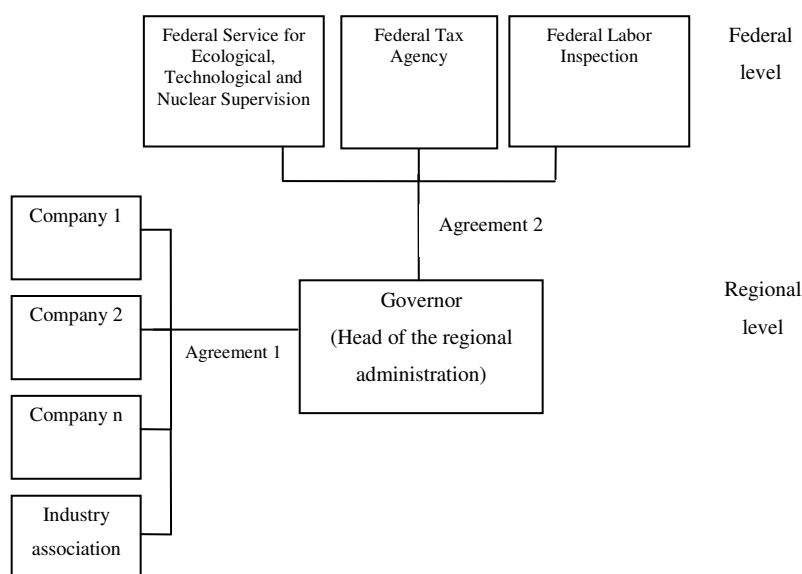
³ The Federal Service for Ecological, Technological and Nuclear Supervision (Rostekhnadzor) in its today's organization form was established on 20 May 2004. Its predecessor agency was the Federal Mining and Industrial Supervision Authority (Gosgortekhnadzor), established in 1992.

3.1.2 Actors

Figure 2 shows the actors involved in the two parallel agreements.

In the centre, as the focal organization, there is the governor of the Kemerovo Region with his administration.

Figure 2: Informal Governance Structure in the Kemerovo Region



The nine companies and the industry association belong to the coal industry.⁴ The companies benefitted from the boom on the world coal markets. They were interested in paying low wages (cf. Kurbatova et al. 2009), and used to ignore occupational safety rules to minimize costs.

The federal authorities control whether the companies comply with environmental, safety, labor and tax regulations. They grant permits and can shut down companies in case of non-compliance.

⁴ The companies are: “Jerunakovskaja Coal Company” LLC, “Coal company ‘Kuzbassrazresugol’” OJSC, “Severstal’-Resurs” OJSC, “Belon” OJSC, “Steel Group Mečel” OJSC/“Južnyj Kuzbass” OJSC, “Raspadskaja Coal Company” Closed JSC, “United Coal Company ‘Južkuzbassugol’” OJSC, “Holding Sibuglemet” LLC, “SUÈK” OJSC, and industry association “Siberian Business Council” (Agreement 2004).

3.1.3 Content

a) Content of the agreement on social-economic partnership (Agreement 1)

The agreement comprised three main issues:

- social guarantees for the employees,
- the enhancement of occupational safety,
- co-financing social programs in the region.

High priority was given to combating poverty, which was considered the main factor leading to social conflicts in the region. Therefore companies promised

- to keep the minimum wage of the workers not lower than the subsistence average in the region, and to enhance the wages in case of high profits,
- to provide the workers and the retirees with additional social guarantees like payment of medical insurance, of medical rehabilitation therapies etc.,
- to improve occupational safety and to upgrade the technology of plants,
- to collaborate with the governor in developing and realizing social programs, for example, to provide the poorest citizens with free heating coal.

The governor promised

- to support companies in acquiring areas for the construction of social infrastructure buildings (kindergardens, schools, hospitals, sports and culture halls, homes for elderly and handicapped persons etc., and housing),
- to support investments policies of the companies,
- to collaborate with the companies in developing and realizing social programs,
- to represent the economic interests of the companies at the federal level (Fridman 2008),
- to help to find foreign investors representing companies' interests abroad (ibid).

The written content of the agreement was supplemented by an unwritten understanding between the parties that the companies paid extra-fiscal dues to regional and municipal budgets (Kurbatova/Levin 2010, 34).

In return, the regional administration offered:

- to create a business friendly environment, which means simplifying administrative regulations and procedures, such as registration and licensing procedures,
- to provide privileged invitation for tenders,
- to “protect” companies from being excessively controlled by federal agencies.

*b) Content of the agreement between the governor and the federal agencies
(Agreement 2)*

Empirical studies conducted in Kemerovo region (Kurbatova/Levin 2010; Sokolova 2007; Urban 2010) as well as mass media reports (Olejnik 2010) suggest that the agreement between the governor and regional industries was accompanied by a parallel tacit agreement between the governor and federal agencies.

The governor promised

- to inform federal authorities on companies violating the law and technical norms,
- to provide the regional subsidiaries of federal authorities with office rooms and flats at a low rent or even rent-free,
- to collaborate with federal authorities in general terms.

In return, the federal agencies promised

- to refrain from extensive controls over the companies which are under “protection” of the governor,
- to enhance control activities over the companies as requested by the governor.

Since federal agencies face huge financial, personnel and information deficits, such collaboration with the governor was very advantageous for them to fulfill their formal tasks.

3.1.4 Form

The agreement on social-economic partnership and the joint statement of the business were written documents which all eleven parties had signed. The texts were published in a journal (as mentioned above). The agreement consisted of 15 articles. It contained provisions about the tenure of the agreement (till January 1, 2007), as well as the conditions for modifying, terminating and extension.

The agreement between the governor and federal agencies was based on verbal communications.

3.1.5 Results

Companies kept their promises by and large.

In 2006, the Kemerovo region was among the five Russian regions with a high living standard (Drugich 2007). The regional social security system is considered to be one of the best in Russia (Tuleev 2008, 198). As the governor emphasized in an interview, the companies in the region are developing as “socially oriented companies” (ibid; Urban 2010, 33). With respect to occupational safety there were mixed results. Some companies invested in modern technologies, some did not. The occupational safety still remains a problem.

The governor kept his promises, too.

The promises about the administrative cooperation between the governor and the federal authorities were also kept by both parties.

In sum, the agreements were effective.

3.2 Explaining the Kemerovo Agreements

3.2.1 Informal characteristics

The two agreements reflect the characteristics of informality outlined above sub 2.2.1.2. It is not clear, if the agreement on social-economic partnership is legally binding or not. Kurbatova/Levin (2010, 38) call it “informal state requirements on business”. They note that financial requirements on private companies cannot be done through legal acts (ibid, 30). Urban (2010, 31) argues that socio-economic agreements were informal agreements because they lack a legal basis.

In the text of agreement, there is a provision on the agreement being “legally valid” equally for all parties (Article 15). A legal validity of a document does not necessarily entail legal consequences. The agreement does not contain any provisions about legal sanctions in the case of breach, and does not require a dispute settlement via courts.⁵ Thus, its effectiveness is not based on legal force but on the socio-political sanctions which are at the disposal of the governor and industries.

The agreement reflects an exchange pattern. Theoretically, the content of the agreement could have been enacted through regional legislation. Since formal legislation carried high political, administrative, and legal risks with an uncertain outcome, the agreement represented a pragmatic alternative for the governor and industries to formal legislation.

The tacit agreement between the governor and federal agencies also displays informal characteristics. It is formless and legally non-binding, and reflects an exchange pattern. Theoretically, its content could have been subject to a formal administrative agreement specifying forms of cooperation between the governor and federal agencies. However, a

⁵ Cf. Farrell/Héritier (2005, 277) consider “informal institutions ... as rules of behaviour not subject to third party dispute resolution”, and “formal rules ... as written rules of behaviour subject to third-party dispute resolution”.

formal agreement carried political and legal risks. Thus, the tacit understanding between the governor and federal agencies represents a convenient alternative.

3.2.2 Agreement on social-economic partnership

3.2.2.1 *Interests.*

The governor was interested in achieving a socio-political balance in the region. He could not accomplish this with his own resources. Therefore, he had to cooperate with industries of the region. This cooperation included to support industries in their economic activities, and to contribute to their economic growth.

Industries were interested in operating in a less bureaucratic climate, in increasing the safety of their investments, and in achieving a social balance within the companies by enhancing the living standards of their workers (Kurbatova/Levin 2010, 44). The agreement with the governor helped them to achieve these objectives.⁶

3.2.2.2 *Providing state plus providing capitalism.*

Informal principles or paradigms concerning the relationship between the state and the private sector are important variables for explaining the conclusion and effectiveness of informal agreements.

As outlined above (sub 2.3.2), the paradigm of the ensuring state partly explained the conclusion of the recycling agreement in Germany.

In Russia, a paradigm of the state and private sector prevails which we call “providing state plus providing capitalism”. This paradigm is rooted in the traditional perception of Soviet times that that state and the state-owned economy has to take care of all the economic and social needs of the Soviet citizen.

⁶ Cf. Pëtr Chaspekov’s (director general of the coal company “SUÈK” OJSC) comments on Statement 2004 in “Delovoj Kuzbass”, 8 August 2004 (Statement 2004).

The concept of the providing state as it is applied to Western-type market economies (Thatcher 2007; Bohne 2010) holds that the state is responsible to provide the citizens with basic services like the delivery of energy, the disposal of wastes and other so-called public service obligations which are exempted from market competition. Thus, the providing state has to deliver basic services and not only to ensure them like the ensuring state. The economy is based on market principles but partly subject to dirigiste state interventions. The French system reflects the characteristics of the providing state.

Looking at the Kemerovo agreement with industries it is fair to say that the governor follows the paradigm of the providing state by actively seeking to improve the living conditions of the population through state intervention. However, unlike in a Western-type market economy, there is the general belief that industries should also be held responsible to improve the living standards of the people through direct transfers like providing housing, infrastructures and social services. Companies themselves consider such practices as necessary and legitimate (Kurbatova/Levin 2010, 33). This is why the governor could successfully demand special economic and social services as well as extra-payments from industries. It is our interpretation that the traditional attitude of Soviet times concerning the responsibility of the state-owned economy toward the people continues to prevail even under the auspices of capitalism. Capitalist economies are held responsible – contrary to market philosophy – to directly provide the people with economic and social services. This is why we call this paradigm the “providing state plus providing capitalism”. We believe that this paradigm largely accounts for the conclusion and effectiveness of the Kemerovo agreement.

3.2.2.3 *Systems functions.*

a) *Integration*

As mentioned above, there were a range of social, political and economic conflicts during the first transition decade in the Kemerovo region. In particular, widespread poverty

caused social unrest. The agreement on social-economic partnership was designed and intended to resolve these conflicts.

Companies, too, considered the agreement an instrument of internal conflict resolution, since they were confronted with a range of internal conflicts between workers and the management.⁷

In sum, the Kemerovo agreement on social-economic partnership served the function of systems integration.

b) Adaptation

During Soviet time all citizens were equally and totally provided by the Soviet state with social services for free (education, medical care, retirement rent, infrastructure etc.). All citizens had by and large equal living conditions. After the collapse of the Soviet Union, the living and working conditions deteriorated dramatically. Many lost their jobs and became poor. The delivery of state services declined, as the state went bankrupt (Tuleev 2008, 197). Through the agreement, the governor sought to resolve the problem of declined living and working conditions in the region (Kurbatova/Levin 2010, 33). Thus, the agreement fulfilled the systems function of adaptation to a drastically changed environment.

c) Resource efficiency

Regional revenues could not cover all the costs incurred by the governor in meeting his responsibilities. As the budget transfers from the federal government to the region remain remarkably small, and the citizens had no own savings, the governor invented new sources of income to fulfill his social tasks. Thus, he resolved the systemic need of allocating scarce resources by using companies' resources. This strategy reflects the systems function of resource efficiency.

⁷ Cf. Pëtr Chaspekov's (director general of the coal company "SUÈK" OJSC) comments on Statement 2004 in "Delovoj Kuzbass", 8 August 2004 (Statement 2004).

3.2.3 Agreement on administrative cooperation

The explanation of the tacit agreement between the governor and the federal agencies is particularly challenging, since there is no published text of it and there are no explicit publications on this issue. Certainly, further empirical research is needed to elaborate on informal cooperation patterns between federal agencies and regional administrations.

Lapina (2006) points to the intransparency of intergovernmental relations in Russia where “informal personalized agreements” between governors and federal agencies’ heads are the dominant mode of collaboration.

Some evidence on the agreement between the governor and the federal authorities results from the companies’ statements which were interviewed in Kemerovo region as well as from news paper reports (Kurbatova/Levin 2010; Olejnik 2010).

3.2.3.1 *Interests.*

The governor had interest to protect regional companies from being extensively controlled by federal authorities. Industries often complained of repeated control activities and huge fines by federal control agencies. Companies, therefore, preferred to pay social programs at the request of the governor which could protect them from costly federal controls (Kurbatova/Levin 2010, 43 f.).

On the other hand, the governor used the federal agencies’ control capacities as an indirect pressure on non-compliant companies, persuading them to make payments as promised.

The federal authorities were interested in improving the effectiveness of enforcement measures. They needed information on companies provided by the governor.

Finally, the federal authorities were much interested in additional revenues, as they were not sufficiently paid by the federal government. The governor could share the extra-

fiscal funds with the federal agencies (cf. Kurbatova/Levin 2010, 44) or grant other financial support.

3.2.3.2 *Systems functions.*

a) Reduction of complexity and uncertainty

All federal agencies need exact information about companies' behavior to fulfill their formal tasks. They suffer from information deficits concerning the companies' compliance with regulations. The governor is "closer" to the companies and can provide the necessary information. Thus, the cooperation agreement helped to reduce the complexity and uncertainty of federal control activities.

b) Resource efficiency

Due to the agreement, federal authorities improved their financial situation which was in a bad state.

The governor, as he lacked direct enforcement capacity, used the federal authorities' power as an indirect instrument to make companies pay extra-fiscal funds. Consequently, the agreement met the systems function of resource efficiency.

3.2.4 *Conclusions*

The effectiveness of the Kemerovo agreements can be explained by a range of factors:

In the agreement 1, the interests of the actors are interdependent and homogenous. All parties had an interest in improving the economic and social situation of the region.

The agreement could only be concluded and be effective because of the underlying state paradigm (the providing state plus providing capitalism), which goes back to the Soviet period.

The agreement could resolve some systems problems too, such as integration, adaptation and resource efficiency.

The agreement 2 was effective because of the insufficient resources of the federal agencies. Struggling with the information deficits, the federal agencies were ready to collaborate with the governor.

4. Comparing Informal Governance in Germany and Russia

Informal governance methods are well known and broadly used in both countries. Their characteristics are the same: Informal strategies are legally non-binding, they display an exchange pattern, and they represent alternative or complementary options to formal regulatory or contractual instruments.

Concepts of informal organization theory and structural-functional systems theory help explain the conclusion and effectiveness of the agreements in both countries.

Informal agreements are a convenient way to accommodate the different interests of actors which may not be fully realized within a formal organization or systems structure. In the German recycling case it would have been difficult or impossible to meet the interests of all actors under formal federal waste regulations. In the Russian case, it is unlikely that the interests of the governor and regional industries could have been realized through formal regional legislation. Likewise, the tacit cooperation agreement between the governor and federal control agencies allowed to satisfy control and financial interests of the federal authorities while the governor could influence federal control activities and thereby exercise indirect pressure on regional industries to keep their commitments.

The convergence of interests of the involved actors explains why the German and Russian agreements were concluded. However, the diversity of interests among large, medium and small companies in the German case was greater than the spectrum of interests

in the Russian case. This diversity of interests contributed to the ineffectiveness of the German recycling agreement.

The capacity of informal agreements to resolve system problems and to meet systems functions as shown in Table 1 represents a set of factors which are crucial for the conclusion and effectiveness of these agreements.

The recycling agreement could not resolve all the conflicts between the participants while the Kemerovo agreements contributed to conflict resolution.

Furthermore, the latter agreements helped adapt the region to drastic economic and social changes in the environment. In contrast, the German recycling agreement ran contrary to the technological and economic development toward non-refillable container systems.

Finally, the informal agreements helped in both cases to cope with information deficits and scarcity of personnel, administrative, and financial resources.

In sum, the Kemerovo agreement met the systems functions of integration, adaptation, and resource efficiency while the recycling agreement only met the latter function. This, too, explains why the Kemerovo agreement was successful and the recycling agreement was not.

The greatest difference between the German and Russian cases are the different informal state paradigms, and the different roles of the state in managing the agreements.

The paradigm of the ensuring state assigns a reserve function to the state. The solution of economic and social problems is primarily left to the self-regulation by private actors. The government is not supposed to intervene into the market unless fundamental public interests are at stake. Consequently, the German government does not have the kind of legal and political means at its disposal which the governor of Kemerovo region had in pressuring industries into the agreement, and in controlling them via agreement with federal authorities. The role of state in Germany is considerably weaker than in Russia. Moreover, German industries are not held responsible for providing infrastructures and basic social services.

These are the tasks of the government and private social organizations which both have to be sufficiently funded through taxes.

Providing capitalism is rooted in Soviet tradition and alien to the German market economy.

From a normative perspective informal agreements create a number of problems for the policymaking and regulatory process.

Informal agreements tend to be inherently intransparent. Their integrative, adaptive, and resource-efficient functionality partly follows from the absence of formal rules and procedures, the exclusion of the public, and the influence of verbal communications even if the text of the agreement has been documented. For instance, the content of the recycling agreement has become known to the public only through press releases and through citations of internal memos in research reports. The Kemerovo agreement was documented but accompanied by many verbal communications between the governor and industries. Light has still to be shed on the cooperation agreement of the governor with federal authorities.

Furthermore, informal agreements are prone to inequitable arrangements. In Germany, citizens have participatory rights in formal administrative decision procedures. Informal arrangements are often used by public authorities and interested private actors (e.g. investors) to circumvent the participatory rights of citizens who may oppose a certain investment project. In the Kemerovo agreement, too, certain companies were disadvantaged by the agreement in comparison to other companies.

Intransparency and inequity can lead to corruptive informal arrangements. This is why informal governance is controversial in Russia (Barsukova 2009, 205 ff.). However, one must take into account that informal governance is inevitable in formalized political systems, and possesses limited systems functionality. In practical terms, corruptive arrangements have to be eradicated but informal agreements represent useful instruments of informal governance.

5. Bibliography

- [Agreement 2004] “Soglašenje meždu administraciej Kemerovskoj oblasti i ugot’nymi kompanijami Kuzbassa ‘O sovместnyh dejstvijach po rešeniju social’nyh zadač i povyšenu blagostostojanija ljudej’.” *Delovoj Kuzbass*, August 8, 2004. Accessed May 26, 2011. <http://www.delkuz.ru/html/200408/02dokumenty.shtml>.
- Barnard, Chester I. *The functions of the executive*. Cambridge, Mass.: Harvard University Press, [1938] 1976.
- Barsukova, S. Ju. *Neformal’naja èkonomika: Kurs lekcij*. Moskva: Izdatel’skij Dom GU VŠÈ, 2009.
- Bohne, Eberhard. *Clash of regulatory cultures in the EU: The liberalization of energy markets*. Speyer: German Research Institute for Public Administration Speyer (Discussion Paper 59), 2010.
- Bohne, Eberhard, and Christian Bauer. „Ansätze einer verhaltens- und vollzugsorientierten Regulierungstheorie unter besonderer Berücksichtigung der Energiemarktliberalisierung.“ *Jahrbuch des Umwelts- und Technikrechts* (2011), 209–318.
- Burrell, Gibson, and Gereth Morgan. *Sociological paradigms and organizational analysis*. London: Heinemann, 1979.
- Coglianesi, Cary, Richard Zeckhauser, and Edward A. Parson. *Seeking truth for power. Informational strategy and regulatory policy making*. University of Pennsylvania Law School (Paper 111), 2004. Accessed May 26, 2011. http://lsr.nellco.org/upenn_wps/111/.
- Drugich, Igor'. “Kollektivnaja stabil'nost'.” *Delovoj Kuzbass* August 24, 2007. Accessed May 26, 2011. <http://www.delkuz.ru/content/view/4760/114/>.
- Farrell, Henry, and Adrienne Héritier. “A rationalist-institutionalist explanation of endogenous regional integration.” *Journal of European Public Policy* 2 (2005): 273–90.
- Fridman, Jurij A. „Biznes i vlast': poiski konsensusa.” *Delovoj Kuzbass* January 5, 2008. Accessed May 26, 2011. <http://www.delkuz.ru/content/view/4937/114/>.
- Gross, Bertram M. *Organizations and their managing*. New York: The Free Press, 1968.
- Hartkopf, Günter, and Eberhard Bohne. *Umweltpolitik: Band 1. Grundlagen, Analysen und Perspektiven*. Opladen: Westdeutscher Verlag, 1983.
- Katz, Daniel, and Robert L. Kahn. *The social psychology of organizations*. 2nd ed., New York: John Wiley & Sons, 1978.
- Knebel, Jürgen, Lutz Wicke, and Gerhard Michael. *Selbstverpflichtungen und normersetzende Umweltverträge als Instrumente des Umweltschutzes*. Berlin: Erich Schmidt (Umweltbundesamt-Bericht 5/99), 1999.
- Kurbatova, M. V., and S. N. Levin. “Deformalizacija pravil v sovremennoj rossijskoj èkonomike (na primere vzaimodejstvija vlasti i biznesa).” *TERRA economicus* 8-1 (2010): 27–50. Accessed May 26, 2011. <http://www.ecsocman.edu.ru/data/2010/03/29/1210332205/journal8.1-3.pdf>.
- Kurbatova, M. V., N. F. Aparina, and E. S. Kagan. “Vybor robotnikami sposobov zaščity svoich trudovyh prav.” *Sociologičeskie issledovanija* 7 (2009): 48–60.

- Lapina, N. Ju. “‘Centr – regiony’ v postsovetskoj Rossii. Istorija, mehanizmy vzaimodejstvija, scenarii buduščego.” *Politèx* 2 (2006). Accessed May 26, 2011. <http://www.politex.info/content/view/239/30/>.
- North, Douglass C. *Institutions, institutional change, and economic performance*. Cambridge: Cambridge University Press, 1990.
- Olejnik, Anton. “Vlast' i biznes: Stimuly k risku.” *Vedomosti* May 21, 2010. Accessed May 26, 2011. <http://www.vedomosti.ru/newspaper/article/2010/05/21/235005>.
- Pappè, Jakov Š., and Jana S. Galuchina. *Rossijskij krupnyj biznes. Pervye 15 let. Èkonomičeskie chroniki 1993–2008*. Moskva: Izdatel'skij Dom GU VŠÈ, 2009.
- Schuppert, Gunnar F. “The ensuring state.” In *The progressive manifesto*, edited by Anthony Giddens, 54–72. Cambridge: Polity Press, 2003.
- Scott, W. Richard, and Gerald F. Davis. *Organizations and organizing*. Upper Saddle River, N.J.: Pearson Prentice Hall, 2007.
- Selznick, Philip. Foundations of the theory of organization, *American Sociological Review* 13-1 (1948): 25–35.
- Sokolova, A. A. “Kontraktnye vzaimotnošenija biznesa i gosudarstva. Na primere Kemerovskoj oblasti.” *ÈKO – Vserossijskij èkonomičeskij žurnal* 6 (1948): 52–65.
- [Statement 2004] “Zajavlenie sobstvennikov (osnovnyh akcionerov) i rukovoditelej ugol'nyh kompanij Kuzbassa v podderžku iniciativy gubernatora Kemerovskoj oblasti A.G. Tuleeva po povyšeniju otvetstvennosti vlasti i biznesa za političeskuju i èkonomičeskuju stabil'nost' v regione.” *Delovoj Kuzbass* August 8, 2004. Accessed May 26, 2011. <http://www.delkuz.ru/html/200408/03dokumenty.shtml>.
- Thatcher, Mark. “Reforming national regulatory institutions: the EU and cross-national variety in European network industries.” In *Beyond varieties of capitalism*, edited by Bob Hancké, Martin Rhodes, and Mark Thatcher, 147–172. Oxford: Oxford University Press, 2007.
- Tuleev, Aman. “Čtoby mečtali žit' v Kuzbasse.” *Naš sovremennik* 8 (2008): 195–203. Accessed May 26, 2011. http://nash-sovremennik.ru/archive/2008/n8/195-203_Tuleev.pdf.
- Urban, Ol'ga A. “Formirovanie èffektivnogo sobstvennika v bazovyh otrasljach promyšlennosti Kuzbassa.” *Sociologičeskie issledovanija* 8 (2010): 26–35.
- Yeung, Karen. “The regulatory state.” In *The Oxford handbook of business and government*, edited by David Coen, Wyn Grant, and Graham Wilson, 64–83. Oxford: Oxford University Press, 2010.