INSTITUTIONAL LEGACIES AND FIRM DYNAMICS THE INTERNATIONALISATION OF BRITISH AND GERMAN LAW FIRMS

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Introduction[3]

Institutionalist approaches to the study of the firm which emerged in the last two decades have tended to be dominated by static models of both firms and institutions. As a form of 'equilibrium' analysis which holds factors constant in order to allow a deeper understanding of how they are interdependent and complementary, this approach has yielded rich dividends in contributing to our understanding of how firms within different national business systems are structured and the effect which this has on their ability to compete in international markets. More recently, however, debates have moved on to consider firms, not just as passive recipients of institutional resources but as actors involved both in the construction and reconstruction of such resources within national contexts and in the selective learning and adaptation of overseas experiences into their own structures. This reflects a deepening integration of economic activities, organisational structures and markets across borders reinforced by a restructuring of regulatory activities away from the monopolistic dominance of the nation-state and the public arena towards a more diffuse and diverse set of regulatory activities and actors operating across states and across the public-private divide. Attempts to conceptualize these processes at a macro-level have traditionally been dominated by the 'convergence-divergence' debate, more recently wrapped up in the discourse of 'globalization' as an ineluctable force undermining national differences and increasing shared and common models of firms and markets. Are these changes undermining national distinctiveness or do they reinforce national differences by accentuating processes of specialisation? Often lying behind this has been the associated but distinctive argument about whether 'convergence' is merely a value-neutral way of describing a process of 'Americanization' – in firm structures, models of management and of markets and in regulatory frameworks.

It is clear that efforts to avoid these simplistic dichotomies require the development of more robust middle-level theory that builds on the foundations of institutionalist analysis (and thereby recognises diverse paths of economic development at national and regional levels) whilst integrating more clearly firm level dynamics of change (and their impact on institutional formation at the national and international level) arising from developments

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in international markets. The resulting studies are likely to tell diverse stories of institutional and firm level change depending on the types of markets involved, the patterns of skill and inter- and intra-firm coordination required to develop particular sorts of products and services and the way in which these processes relate to structures of political and economic regulation.

This paper is developed as a contribution to this level of analysis. Its central empirical focus consists of law firms in England[4] and Germany. Law is a deeply embedded social phenomenon reflecting in both these societies long-running historical processes of state and societal formation. In the last twenty years, however, the largest law firms in these two contexts have increasingly become international. How are we to understand this phenomenon? How were institutional resources drawn on in this process? Was this path-dependent or were firms active in reinterpreting or changing institutional resources to enable the formation of new paths? Is this a process of convergence? Is it a process of Anglo-Saxonisation? Does it involve the development of further specialisation and differentiation? What makes these questions especially pertinent is that lawyers are central actors in the construction of regulatory regimes at both the national and the international levels. If, therefore, our research were to show convergence at the level of firms, one could expect that this would lead to further pressure for convergence in terms of international rule-making institutions where the law firms are centrally influential. By investigating law firms from these two societies, we can therefore shed light on both empirical and theoretical questions at an important mid-range level which links firm dynamics with institutional change.

Our reasons for taking Germany and the UK as our basic empirical reference points are the following. Firstly in all the literature concerning 'varieties of capitalism', these two countries are presented as exemplars of the difference between some form of liberal market economy and coordinated market economy (Amable 2003; Hall and Soskice 2001; Schmidt 2002; Whitley 1999). This is reflected in the distinctive relationships between law, lawyers and the state which have traditionally existed in both societies. There are clear path dependent trajectories from this history which would be expected to shape current developments. Secondly these two countries are major participants in the EU which is one of the most crucial domains of institution-building in which national law is being restructured through international activities and where the largest law firms are active both within the judicial processes of EU law and within the political context of lobbying and influencing the EU legislative and decision-making agenda. Thirdly, these two societies have very different relationships with the US and the advent of the US sponsored neo-liberal world order, not least in the area of law where the commonalities of the common law model in the US and the UK make for a level of mutual comprehension which is absent in the clash between Common Law and European style Civil Law.

Our approach is to examine the nature of the social embeddedness of law in the two societies and then consider the structural changes in the top law firms that have occurred

[4] We use the term 'English' here rather than British as Scottish lawyers are regulated somewhat differently. The term 'British' is used when we refer to them in relation to their overseas activity.

since the 1980s particularly in relation to internationalisation. We relate this to broader issues of institutional and market change at the sectoral, national and international levels. The paper proceeds in the following steps. In the first section, we outline the historical trajectory of the legal profession in these two societies. In the second section of the paper, we examine empirically the pattern of internationalisation of the largest corporate law firms in Germany and the UK in the last two decades. In the third section, we argue that there are three broad patterns of internationalisation and that two of them (which we label as network strategies and organic growth strategies) are common to both German and British law firms in spite of their very distinctive national origins. The third pattern which we describe as the creation of global law firms appears to be confined to British firms. For this reason we examine this in detail to see whether it indicates that the internationalisation process in law is going to follow the accounting model in terms of an increasing hegemony of Anglo-American global firms and Anglo-American legal standards. We find reasons for being cautious about such a conclusion. Finally we relate this argument to broader discussions regarding institutional change in general and change in Germany in particular.

British and German Law firms in their national contexts

In the comparative analysis of professions, there are two forms of analysis. The first, more straightforward argument, demonstrates that the manner in which characteristics of professionalism are constructed is dependent on the nature of the relationship established between the state and the profession (Johnson 1972; Torstendahl and Burrage 1991) The more dependent the profession is on the state for its existence, rights and privileges, the less able it is to engage in activities to extend its sphere of influence. In effect, the nature of professional power is a reflection of the way in which the state relates to social groups within it. Is the predominant mode of state engagement towards structuring and shaping social groups or is the state itself an outcome of the actions of social groups and not dependent or 'superior' to it? The latter reflects the characteristics of the Anglo-American state whilst the former resembles more continental European models of professional formation. The second form of analysis pushes this further and considers the knowledge that is constructed within the sphere of the professional (Abbott 1988). This second perspective is particularly necessary in relation to law and the legal profession where the inter-relationship between knowledge arenas and professional practices varies in significant ways across national borders. This reflects deep and enduring differences in the nature of law and its relationship to political structures which in European countries goes back into the Middle Ages, predating both the formation of the modern state and the industrial revolution (Karpik 1999; Halliday and Karpik 1997). Thus a broad activity such as 'law' and the knowledge and skills associated with it are constructed very differently across legal traditions. Karpik's studies of French lawyers reveal that it was the inter-relationship between different actors – lawyers, advocates and notaries – and how they related to both legal activity and political activity more generally that shaped what was to be known and by whom (Karpik 1991; 1999).

Applying these discussions to the English and German examples, the following points are immediately obvious. English lawyers preceded the formation of the modern state and

were in many ways central to its formation where the rise of Parliament and the legislature in the 17th century cemented an independent position for the legal professions. This was built on the foundation of English Common Law with its emphasis on case law and the use of interpretation and precedent to extend the legal decision-making arena (Osiel 1990). Self-regulation of the legal profession has been a central pillar of this process though it has undergone transformations and change in recent decades (Abel 2003). An essential element of this model has been the potential for entrepreneurialism. In other words, rather than restrict its own activities or allow the state to do so, the English legal profession has sought to extend its own mandate and jurisdictions. This is particularly relevant in relation to the development of economic activities such as the establishment of joint-stock companies and the development of new financial instruments[5]. A small number of law firms based in the City of London (and known collectively as the 'Magic Circle' due to their influence, power and secrecy) became integrally involved in facilitating the construction of financial and capital market processes and products and aiding in their legal constitution. Although this may have led to jurisdictional disputes, particularly with merchant banks (less so with accountants who were generally low status in this particular corner of the English class system), in the main, the symbiotic relationship between the City and these firms worked highly effectively in providing a legal environment in which financial institutions could experiment and develop new products. Though this entrepreneurialism did not extend to the same extent to provincial law firms it nevertheless gave a distinct direction to the further development of large British law firms[6].

The same can be said of the entrepreneurial role of London City law firms in the early internationalisation. The British empire provided a frame in which the English legal tradition could be exported. In the inter-war years, the Dominions of Canada, South Africa, Australia and New Zealand became especially important outposts of English law and lawyers trained in that tradition. In the post-war period this was extended to other areas such as Singapore and Hong Kong which emerged as major entrepots for European and US trade into Asia. The Anglo-American legal tradition of Common Law spread internationally into a number of geographical areas that became highly significant commercial centres as world trade grew in the post-war period. This tradition and its associated practices and professional structures, therefore, implanted itself internationally in a way that other European law traditions failed to do. It became the common currency of much international trade, a position which it has continued to sustain, thanks also to the continued centrality of the City of London in a variety of markets.

Another aspect of how the English common law developed related to the broader social context. Historically, the institutional context in Anglo-Saxon countries has fostered the development of privately provided intermediary services. This relates to the fragmented and arms-length Anglo-Saxon business environment (Whitley 1999) in which law firms (amongst other types of private professional services firms) emerged at an early stage in

[5] By contrast, Karpik states that in the 19th century French lawyers deliberately avoided involvement in economic issues as they felt this compromised their independence (Karpik 1991).
[6] This distinction between London City and 'country' solicitors remains neglected in the otherwise very useful studies of Osiel (1990) and Abel and Lewis (1989) on the history of the British legal profession.

order to solve problems of uncertainty in funding, contracting and compliance. Both in the US and Britain private service intermediaries played from an early stage of industrialization a prominent role in bridging information gaps and fragmented societal spheres typical of the Anglo-Saxon type of business environment. Particularly in the US, but also in Britain, professionals in business services developed entrepreneurial qualities in generating new and additional business, often undertaking professional and brokering tasks at the same time within the context of largely self-regulated professions (Lane et al. 2000; Sugarman 1983; Osiel 1990). The financial rewards for law firms and for individual lawyers from linking in this way, particularly with the City of London, were high and further encouraged this process. In terms of commercial law, this created a pyramid effect with the City lawyers at the top linked into the city markets and other provincial law partnerships beneath linked into their own local elite. Thus most of the profession could benefit from this linkage though some benefited more than others. When restrictions on the size of partnership were lifted in the 1967, the size of corporate law firms dealing with the City of London began to increase. Megalawyering, similar to that which had occurred in the US in the early part of the 20th century, grew as firms sought to increase their level of specialisation in particular areas of corporate law and develop stronger and more frequent relationships with their emerging multinational clients using the opportunity to expand significantly (Flood 1989). By 1988, the largest firm in England (Clifford Chance) had 168 partners and the 20th largest (Berwin Leighton) had 40 (Flood 1989: 577). A number of large firms also arose from mergers between law practices in large provincial cities in England. These firms in turn established offices in the City and although that in itself did not give them entry into the 'Magic Circle', it did provide a base for competing in London and overseas with the Magic Circle firms.

The crucial moment for the 'break through' of London City solicitor firms into the top league of the world largest law firms came in the 1980s. According to Flood (1989; 1996), British business and consequently its law firms underwent tremendous change during this period, particularly during the years of the Thatcher government. The deregulation and reregulation of Britain's financial services industry, including the Big Bang and the Financial Services Act in 1986, generated a rapidly expanding securities industry with a dramatically increased demand for legal professionals with the appropriate specialities. The growing influence of stock markets and investment funds on corporate control led to a rapid increase of takeovers and M&A[8] which generated a growing demand for legal expertise on corporate matters. Further important factors were the large number of privatisations under the Thatcher governments and the internationalisation of corporate companies (both British MNEs going abroad, and foreign MNEs locating their production in the UK). London City law firms responded by expansion (partly through organic growth, partly through mergers among each other). According to Flood (1989), City firms became not only bigger and more internationalised (see below) but they also demonstrated an increasing identification with clients,

[8] Lane (1995) states that in the 1980s, three out of four takeover bids in the European Community occurred in the UK.

undertook larger and longer projects for large clients, were using more creative methods of lawyering and expanding into a wider range of law-related services.

In sum, English law firms, particularly those situated in the City of London, have been increasingly characterised by (a) entrepreneurialism – a willingness to involve themselves in new areas of activities, (b) internationalisation – through the experience of empire, and (c) a positive orientation to business, mostly around acting as intermediaries that facilitate new forms of activity (rather than acting as a constraint on that activity).

German law firms offer an interesting contrast. Their role in the development of German organized capitalism was rather limited as the state and associations undertook more of these coordination functions. Industrialization in Germany took place within the framework of highly developed state bureaucracies (even though still to be unified), codified and rather comprehensive civil law regulations concerning trade and economy, and a Prussian authoritarian state tradition that regarded law as an unquestioned order to which citizens had to comply (Rueschemeyer 1973). In this context, the legal profession emerged as a state-sponsored project under the dominance of public judges in which business lawyers, even though a respected group, in terms of numbers and institutionalised power held a rather peripheral position (Blankenburg and Schulz 1988; McClelland 1991). Up into the 1970s, the bulk of German law graduates went into the judiciary and the civil service. Another quarter went into private companies and only around 25% went into private practice. The choice of which direction to take after graduation was crucial as there was not much shifting around between the categories. High performers tended to choose the judiciary with its elements of security of tenure, salary and pension as well as status. Legal education reflected this with a predominant emphasis on constitutional and administrative law and little on areas like contract drafting or tax law. 'Transactional lawyering' (dealing with the details of contract and business law) as opposed to litigation, advocacy and court related work in general was of second order significance in the German system (whereas the City of London law firms were highly transactional in their business structure).

Apart from the distinct development of the legal profession, the broader social and institutional context of 'coordinated' capitalism shaped the development of business law firms in Germany. Overall, it can be argued that throughout most of the 20th century, the emergence of relatively strong non-market and non-contractual forms of coordination limited the demand for market-based legal advice in Germany. The concentration and cartelisation development at the turn of the 19th century, for example, took place within a social context that regarded the increasing size and power of industrial and banking conglomerates as desirable, or at least acceptable, and therefore did not give rise to large business law firms as part of the 'legal wars' which surrounded the transformations of US capitalism during the same period (Roy 1997) and contributed to the early development of the megalaw model in the US system in the first three decades of the 20th century (compared to the 1980s in the UK and even later elsewhere). German capital markets evolved along the lines of a bank-based financial system, tightly regulated by the state and the Central bank, and dominated by the large commercial banks leaving little space for a market of legal financial advice as it existed in the City of London. Thus, there were

fewer opportunities for German law firms to be innovative in this area. Up into the 1970s and 1980s, new financial products were positively discouraged and risks kept to the minimum as a result of the experience of the inter-war years (Morgan and Quack 2000). There was no equivalent of the City of London to drive German law firms on with its lure of high profits. In addition, large industrial companies and banks internalised from early on a considerable amount of the legal advice in their counselling departments.

Last but not least, traditional conceptions of the attorney's function as well as competition of banks, accountants, and other new professions and institutions limited the emergence of a 'transactional approach' towards business law (Rueschemeyer 1973). Professional associations maintained a status-group orientated approach towards professional standards which, according to Siegrist (1996), expressed the overall social and cultural distance of dominant parts of the legal profession from the needs and interests of the emerging bourgeoisie. The influence of the Civil Law tradition was strong. This defined law in terms of statute and was highly conservative. Osiel states that the dominant view of law in Germany is that it is a 'purely analytical, intellectual construct, a sealed system of logically interconnected propositions impermeable to the economic pressures of the business world. That conception of law not only precluded German judges from transforming doctrine in order to facilitate economic development but also thereby impeded German lawyers from insinuating themselves into the most powerful positions within the private corporations that would eventually come to dominate even the German economy….Whatever new opportunities for work and wealth the evolving social needs of the time presented to lawyers were thereby lost' (Osiel 1990: 2052-3).

Up until the recent past, this approach was visible in the many restrictions which German lawyers faced in private practice. Law firms were, for much of the period, prevented from advertising themselves as specialised in any particular area of law, though both of these restrictions were relaxed in the 1990s. To prevent what was deemed as unfair competition and to maintain a high standard of professionalism, fee levels were regulated by statute and implemented by the Chamber of Advocates under the supervision of the judicial authorities. More significantly in comparison to the UK, lawyers could not form partnerships with lawyers in other cities; they could not open up other branches; they could not choose freely their residence or law office.. In 1989, none of the largest corporate law firms employed more than 50 lawyers (including partners and associates) (Rogowski 1995: 125). Lawyers acted as technical specialists and advisors within the constraints of a predominantly state regulated profession, rarely engaging in entrepreneurial activity.

The size of German corporate law firms, however, started to expand rapidly after rulings of the German Supreme Court removed restrictions on unified national partnerships in 1989.Two years later, three leading corporate law firms merged into *Bruckhaus, Westrick*

& Stegemann. This firm, specialised in competition law and mergers and acquisitions (M&A), became the largest German law firm with 112 partners and associates. German unification and the creation of the *Treuhandgesellschaft* created further incentives for supra-local mergers involving law partnerships from Berlin and other parts of the country. As a result of this consolidation, the largest German corporate law firms doubled in average size during the period 1989 to 1992 (Rogowski 1995: 124). The creation of German firms with national reach involved both firm level dynamics and institutional change pushed forward by key actors within the firm and in the professional and juridical associations. It proved crucial to subsequent processes of internationalisation as it gave German law firms a stronger position than they would otherwise have had to defend their home market against competition of Anglo-American firms.
Despite some initiatives of German law firms to open up offices in Brussels and capitals of neighbouring CEE countries, German law firms did not yet spread significantly outside Germany during this period (Römermann and Römermann 2000). The borrowings and similarities in commercial law with Germany's European neighbours (and to some degree with Japan) were in no way comparable with the opportunities which the British Empire offered English law firms. In effect, there was no strong tradition of internationalisation for German law firms nor was there any serious material basis for it in any other country. Germany's legal regime was highly developed and highly integrated into its own model of coordinated capitalism but it had no obvious transferability element in it.

Contrasting the British and German corporate law firms in the mid-1980s, it appears that they were at rather opposite ends of the spectrum with regard to the competences, scope of activity and professional values, as might be expected from an institutionalist analysis of their embeddedness in different national business systems. English law firms were entrepreneurial, concerned to develop law that facilitated the bridging of gaps between what seemed commercially possible and what was legally allowable, international in orientation, focused on developing corporate contacts. German firms were organized to advise clients on strict codes which arose out of the mechanisms of coordinated capitalism. The key decisions were taken in the arenas of corporatist governance and lawyers tended to administer rather than shape in any fundamental way these decisions. In particular, the area of law concerned with capital markets and finance was carefully controlled by the state in order to reduce risk.

Changing Markets: National and International dimensions

Law firms traditionally did most of their business within their home markets. The right to practice was governed by national regulations and the law which was practised was 'national', i.e. the outcome of the specific legislative and judicial practices of nation states. However, as has been suggested, not all legal activity could be circumscribed in this manner. For centuries, there have been corporate and private clients of law firms with interests in countries other than that in which they are legally domiciled. Buying and selling property, the protection of patents and intellectual property rights, debt recovery and commercial arbitration, the establishment of corporate forms and involvement in capital markets are just a few of the activities which have traditionally crossed borders
The traditional basis of this work up to the last two decades has been through referrals, i.e. a law practice in one country refers their client to a practice in another country. These referrals were generally based on bilateral relationships between the two firms involved and worked on the basis of personal knowledge and reciprocity. The basis of these referral systems historically has been a sense of reciprocity in terms of fee-earning potential. Generally it appears that no money changed hands between the two law practices involved in the referral. To have done otherwise it would have been necessary to establish bureaucratic procedures that neither firm wished to enter into. What took the place of this was the establishment of obligations to reciprocate. If the stream of referrals flowed steadily in one direction but not in the other, it would be likely that the firm sending the referrals would look to find another partner more willing to reciprocate. Generally referral work was a small part of a firm's overall turnover in this period, often undertaken on a grace and favour basis rather than with any great hopes for revenue and profitability. Only when this changed and the scale and scope of referrals grew did a competitive market emerge, at which point the structural solution which had been sufficient for this previous phase, began to be supplanted by other models.

Historically, both British and German business law firms have made use of such referral relationships. Personal knowledge and reputational networks, though, were easier to establish in the context of the British Common Law system and the existence of Empire than in the context of cross-European contacts. Traditionally many people came from the Empire to London to learn British Common Law (amongst them, for example, Mahatma Gandhi) in the process developing personal links with other lawyers in the UK. Similarly it was relatively easy for UK trained lawyers to go out and practise particularly in the Dominions and the colonies, e.g. in Hong Kong up to the handback to China, UK solicitors were admitted automatically and were able to practice local law; UK based QCs regularly visited to appear before the local judiciary. The law associations of these Dominions were also strongly influenced by the UK Law Society, again promoting personal and reputational linkages. In all these ways, therefore, referral networks could

be quite easily established around what eventually became the Commonwealth where the influence of British Common Law was strong and personal networks facilitated by this inter-twining process.

More problematic has been the question of links between UK firms and those based in mainland Europe. In this context, it is possible to identify two strategjes. The first consists of informal arrangements entered into on the basis of historic connections or other personal networks, often established through contingent historical circumstance or particular interest on the part of one partner. From the Continental point of view, an important stimulus to this was that the City of London was obviously a major entrepot for trade, insurance and finance on the world scale. Therefore establishing a link into firms familiar with that market could be important. The second is deliberate linkages established by high ranking firms in two countries to act as each other's 'best friend' in referrals. The resulting referral relationships in turn merged together in the 1980s and 1990s as international activity became more intense.

By the start of the 1980s, therefore, there were multiple bilateral linkages across law firms, some of which were long established and stable, others of which were more temporary and uncertain. The idea of 'exclusive' bilateral linkages was limited to just a few of the more prestigious firms.

During this period, the presence of law firms through their own offices in foreign countries was of relatively minor significance. In so far as large law firms – predominantly but not exclusively from the US and UK – maintained such foreign offices they tended to act on behalf of their home based clients using home based law. Entry into new markets was regarded by internationally oriented law firms as an ambivalent strategy since it placed reciprocating firms in competition with each other and carried the potential for upsetting existing referral networks reducing the profits gained from this type of work.

This situation started to change in the 1990s in both Germany and the UK as well as more generally. In terms of the external environment, the triple forces of globalization, the increasing integration of the EU and the collapse of the Soviet bloc were crucial. The result of these forces was a huge expansion in the international market for legal services.

A central feature was the deregulation and consequent internationalization of financial markets which in turn was related to and facilitated by the rise of multinational companies. As firms sought access to new markets or new sources of funding, they looked for advice on dealing with the multiple norms, regulations, resources and contractual practices at national, international and supranational level which affect these

processes (Beaverstock et al. 2001; Rose and Hinings 1999). This required an integrated approach to advice across national contexts. Clients looked for firms which had the capability to compare and contrast different legal regimes as well as having the ability to see how emerging transnational regulations, e.g. in the EU or NAFTA might impact on corporate decision making. This sort of advice could not be handled on the basis of bilateral referrals amongst 'best friend' networks. Compared to earlier periods of internationalisation in which cross-border coordination and dispute resolution between business firms relied mainly on particularistic, interpersonal networks, the current period is characterized by an increasing formalisation, structuration and standardization of the rules of the game in various and partly overlapping transnational arenas (Braithwaite and Drahos 2000, Djelic and Quack 2003, Morgan 2001, Whitley 2003). Economic and political actors are now often confronted with the complexity of multi-level (national, regional and transnational regulatory environments) and multi-national regulatory contexts (Morgan 2001) on which they seek specialized legal advice regarding matters of compliance and exploitation of existing and emerging regulations.

As part of this broader trend, the increasing integration of the EU was a second significant force particularly for UK and German firms. Over the course of the 1990s, this moved quickly through the completion of the Single Market into preparations for the Eurozone and the increasing involvement of the EU in a variety of areas related to firms, their growth, development and governance. In this process, Brussels as the centre of European decision-making became increasingly important. UK and German firms needed legal advice on EU issues that required access to and understanding of this emergent regulatory order.

In relation to the collapse of the Soviet bloc and the reform of the Chinese economy, it was clear that there were going to be opportunities to participate in the rebuilding of these countries with a significant role to be played by the US and international organizations such as the World Bank and the IMF. The rebuilding process would be facilitated by a dual process of aid and capital investment on the one side, accompanied on the other side by the privatisation and restructuring of the local economies. The network of linkages across financial institutions, lawyers and accountants in order to create these institutional and economic changes was strong, with a particular sense of the opportunities available for international law firms if they could access these territories. For geographical, historical, economic and political reasons, Germany became a central point in the process of eastward expansion through the former Soviet bloc.

These external contexts clearly drove changes amongst law firms nationally and internationally. This was reflected in a number of processes. Firstly, there was more intensive networking activity across borders by both British and German firms. Secondly, there was the establishment of more foreign law offices in national jurisdictions. Thirdly, building on the earlier consolidation of national firms within the UK and Germany, by the end of the decade, there was a phase of intensive merger activity between law firms from these two countries.

The development of networks:

The 1990s were a period in which international network relationships become more formalised Some of the first formal network associations of independent law firms were established in the early 1990s. These included typically medium-sized and small law firms form different countries which wished to present themselves as possessing an international capacity for their clients. Multilaw for instance was founded in London in 1990 and in 2004 consists of 4500 lawyers in 130 commercial centres. Lex Mundi which now claims 15,000 lawyers in 161 member firms, with more than 560 offices in 99 countries, was founded in 1989. MSI Network, which is unusual in that it has accounting firms as members as well as law firms, was also established in 1990. It now has a membership of 115 Law Firms and 120 Accounting Firms.

Towards the end of the 1990s, a different type of formalised network emerged out of combinations of corporate law firms from different European countries. It typically involved smaller numbers of firms which though not ranging among the top firms in their home country nevertheless could draw on a high domestic reputation. CMS is an example of this type of network. Established in 1999 by the UK firm Cameron and McKenna, the German firm Hasche Sigle Eschellohr Peltzer and firms from Austria, Belgium, Switzerland, France and Italy, CMS is now a tighly integrated network. Member firms retain independence in their home jurisdiction but are coordinated through an European Economic Interest Grouping (EEIG) registered in Brussels, Belgium. Another example of such a network is DLA headquartered in the UK and networked with firms in a considerable number of European cities.

Last but not least, some of the top UK and US firms intensified their linkages with the emergent large German law firms towards the end of the 1990s. The UK firm Freshfields made their relationship with the largest German firm, Bruckhaus Westrick Heller Löber more explicit, Linklaters (again UK) cooperated more closely with Oppenhoff & Rädler (Germany) and the US firm Polk & Wardwell linked up more closely with Slaughter & May (UK) and Hengeler Müller (Germany). In some of these cases, the formalisation of referral networks became the precursor for later mergers.

The entry of foreign law firms into German and UK domestic markets

Towards the end of the 1980s, more and more British and American law firms decided to build up offices in Germany. Among them were Clifford Chance and Freshfields from the UK, both of which entered in 1990 and Sherman and Stearling as well as White & Case

[17] A recent example of the sorts of tensions and micro-politics which may emerge was reported recently in *The Lawyer* (June 7, 2004) where the problems that the US firm Baker & McKenzie were having in persuading their German partners to change their reward formula for partners towards a modified lockstep model was described in the context that the Germans might also resist plans to reform the partnership structure of the firm. German lawyers resisted not just by ‘voice’ but also by exit, leaving to join other international firms.

from the US. By 1991, 10 foreign law firms had established a presence in Germany most of them focussing on Frankfurt as the countries' financial centre. The deregulation of capital markets, the increasing internationalisation of German large companies, the infant but rapidly expanding market for mergers and acquisitions (M&A) (Lo 1999) together with the size of the German economy and its weight in the context of the creation of the European Single Market appeared to offer lucrative perspectives for British and American law firms (Quack 2004).

UK and US law firms found entry into the German law market more difficult than they had expected (Lace 2001). In order to serve German customers, they needed to invest in knowledge and competences of the local jurisdiction. In practice this could be obtained only through the recruitment of German lawyers – an undertaking that proved to be a slow and difficult process. Lateral hiring was still very unusual between German law firms at that time. UK and US law firms were further hindered in enlarging their practice by the lack of offices in other cities which were quite important in the context of the decentralised German system. As a result, their activities remained during the first years of their operation confined to a small, but slowly growing market niche of advising German clients on Anglo-Saxon law.

The remarkable entry of Anglo-Saxon firms into the German law market was not accompanied by a reciprocal move of German law firms into London. Abel states that 'in mid-1990 there were over 100 foreign firms in London from twenty countries' (Abel 1994: 791). The US had by far the largest number with 53; France had only 2 and Germany none at all. Australia and Canada had 7 each. In the UK, the right to practice law was monopolised by those qualified in the UK. Foreign firms tended to act on behalf of their home based clients using home based law. The reason US law firms entered then was to serve their multinational corporate clients, particularly those for whom the London international markets in capital, commodities and insurance were important as well as the American investment banks which took over a number of London city banks during this period. American as well as other foreign law firms in the UK operated on a rather small scale as compared to the leading domestic law firms. Few German banks or manufacturing companies had any connection with these markets and there was no real impetus for German law firms to enter.

UK and German law firms establishing offices abroad

Following Beaverstock and collaborators (1999) the driving forces for City solicitor firms to internationalise rapidly during the 1990s were the growth of international securities markets, competition for international legal business advice from large accountancy firms and the creation of the European Single Market (see also Flood 1996). These firms started to build up strategic alliances with nationally-based firms in continental Europe, gradually progressing towards fuller integration and merger. Following the breakdown of the Berlin wall, some of them also opened offices in Central and Eastern Europe. Singapore and Hong Kong proved particularly significant to the largest City law firms offering a combination of existing ties to the UK, existing links to the UK law establishment and a period of rapid economic growth (see e.g. Beaverstock 2002 on

Singapore; also Beaverstock et al. 1999 and Beaverstock 2004 on expatriation in UK law firms). By 2000/1, the London City firms stood out from the top ten law firms when listed in terms of number of employers employed as the far most internationalised (see table 1).

TABLE 1 ABOUT HERE

The late 1990s and the early 2000s, however, saw a catch-up race for international expansion by some UK law firms that originated outside London. Firms such as Dibb, Lupton and Alsop, Ashurst Morris Crisp or Denton Wilde Sapte expanded very rapidly into the European Union, Central Eastern Europe and Asia. As table 2 indicates, in 2002 these firms were able to catch up to some extent with the London City firms in terms of numbers of foreign offices and international networks. Their geographical expansion, however, focused more on the emerging market of the European (and in some cases emerging markets in CEE and Asia) than on the old colonial or the modern global cities' model (see below).

(TABLE 2 ABOUT HERE)

Having achieved a critical size through mergers amongst themselves, some of the larger German law firms seized upon their competences from privatisation in East Germany as well as historical links in to neighbouring countries in order to expand into CEE countries. By the turn of the century, German law firms such as Nörr, Stiefenhofer & Lutz, Haarmann Hemmelrath and Beiten Burkhardt had established a presence in these countries that was at least as dense as that of large British and American law firms. At the same time, leading German law firms faced increasing pressures for internationalisation from the growing demand of their domestic corporate customers for advice on how to access and handle transactions in international financial markets. Since they found it difficult, to develop these competences exclusively based on internal resources some of them turned to build up closer relations with Anglo-Saxon law firms, either as loose networks or envisaging the option of cross-border mergers.

Mergers between Anglo-Saxon and German law firms

At the turn of the century, mergers between Anglo-Saxon and German law firms gained a previously unknown and surprising momentum and transformed the landcape of business law firms in Germany considerably. Whereas old-established German firms still dominated the scene in 1998, only a few domestic law firms were ranked among the fifteen largest business law firms in Germany in 2002. Eight out of the Top Fifteen law firms in Germany ranked by turnover originated from the combination of a German firm with a large British or American firm during this four-year period. Taking into account also Baker & McKenzie as an American firm and CMS as a European network, there remain only five of the top fifteen firms that are German (see Table 3).

(TABLE 4 ABOUT HERE)

The most international among these German law firm in terms of foreign offices are Haarmann Hemmelrath and Beiten Burkhardt Goerdeler , though here the pattern reflects other German law firms in that a major part of its expansion is into Eastern Europe, the main difference being that they also have offices in Asia.
After their recent mergers with foreign firms, *Clifford Chance Pünder* and *Freshfields Bruckhaus Deringer* employ more than half of their lawyers outside the UK and more than 90 per cent of their offices are located outside the UK. With *Linklaters*, *Lovells* and *Allen & Overy* there are another three City firms which during the 1990s expanded their international presence beyond the classical 'colonial' pattern. As a result, at the turn of the millenium London City law firms appear to be more international in terms of their staff abroad as well as in their overall global reach than their US American counterparts. They also maintain a more dense network of representations within the European Union as well as in Central and Eastern Europe which they are currently attempting to expand (see also the more detailed analysis of Beaverstock et al. 1999; Flood 1996).

3 models of organizing the internationalisation of law firms

In this section, we compare the experiences of internationalisation of law firms between the UK and Germany. Broadly speaking we can identify three models of internationalisation, two of which are similar across Germany and the UK (what we refer to as 'network internationalisation' and 'organic internationalisation') and the third of which we label 'the global firm model' and which appears at first sight to be distinctively British. We discuss each of these models in turn.

1. **Network internationalisation**

A strategy of network internationalisation for law firms has strong continuity with the past. A central appeal of the 'network' model for law firms is that it avoids partners giving up the autonomy that traditionally characterises their position. Nationally based firms retain their own distinctive styles of managing partnerships and all the associated issues to do with leveraging, billing and the distribution of equity and bonuses amongst different types of partners, associates and employees. As recent literature in the professions on the transition to the Managed Professional Bureaucracy (see e.g. the various contributions in Brock et al.1999) and on the dynamics of partnership (Greenwood and Empson 2004) reveals, growth in size and complexity creates tensions for traditional organisational models. Adding the international dimension on top of this increases these problems exponentially (see Morgan and Quack 2005) (an issue to which we return in our discussion of global firms). Not surprisingly, therefore, many firms, both in the UK and Germany, have sought ways to protect their independence whilst developing an international reach through alliances and networks. In this model, firms retain their independence in national contexts but advertise and effect a longer transnational reach by establishing relationships with other firms. Two models can be considered:

- **The informal network model:** This refers to those law firms which achieve an international reach through informal network relationships. In the UK, the one 'Magic Circle' firm which has not gone down the 'global firm' route is Slaughter & May. It has limited its expansion of offices to just a few key places - Brussels

Hong Kong, New York, Paris and Singapore whilst describing itself as networked with a small number of high prestige firms in other countries including Hengeler Mueller in Frankfurt (third largest law firm in Germany), Uría & Menéndez in Madrid, Allens Arthur Robinson in Sydney, Mannheimer Swartling in Stockholm, Anderson Mori in Tokyo and Cravath, Swaine & Moore and Davis Polk and Wardwell, (both from New York and ranked 2nd and 6th respectively in the FT's table of the most profitable law firms in the world measured by profits per equity partner: FT 22/03/04). Two other UK based firms which have developed in this way are Herbert Smith (in a network with Gleiss Lutz, 7th largest in Germany and Stibbe, a Brussels based firm with offices in Amsterdam and New York) and Eversheds which provides service through a combination of own offices in Europe and associated firms in Europe and Asia which constitute a network of 'best friend' and preferred law firms across the globe that have been used in the past. Again it is interesting to consider this strategy from the German perspective where it characterizes two of the top 10 firms – Hengeler Muller and Gleiss Lutz (which proclaims its network relationship not only with Herbert Smith but also with Cravaths of the US).

- **The formal network model**: Amongst the largest firms, the formal network takes a different structure to that which seems to characterise organizations such as Multilaw (with its 4500 lawyers in 130 commercial centres or Lex Mundi with its 15000 lawyers in 161 countries). The most significant network model of the formal sort amongst the top companies in both the UK and Germany is the CMS network (known as CMS Hasche Sigle in Germany, 5th largest firm in Germany and CMS Cameron McKenna in the UK, 14th largest firm there). The CMS network is concentrated in Europe and consists of partners in Italy, France, UK, Netherlands, Switzerland, Belgium, Austria. Another example of such a network is DLA headquartered in the UK (where it is the 9th largest firm) and networked with Ginestié Paley-Vincent & Associés (France), GÖRG Rechtsanwälte (25th largest law firm in Germany), DLA SchutGrosheide (Netherlands), Lindh Stabell Horten (Sweden), DLA Nordic (Norway & Denmark), Ang & Partners in Singapore, Lui & Carey in Hong Kong, Despancho Melchor de las Heras (Madrid, Spain), Price & Partners (Brussels), Brugueras Garcia-Bragado Molinero & Asociados (Barcelona, Spain).

What is striking here is a convergence of strategy and structure between UK and German law firms. On both sides of this institutional divide, achieving international presence through formal and informal networks is a clear option for firms. As with global firms, it is unclear how this will work out in practice as new governance structures emerge at the international level but what is certain is that the network model implies greater flexibility than the global firm model. The network can grow easily, it can be closed down or reduced in scale relatively simple. It leaves the key features of professional autonomy comparatively free from the constraints of an international management and supervisory tier of decision-making and authority. From a more detailed perspective, it is not yet clear how particular governance structures for networks relate to the ability to construct particular services for clients, e.g. loose governance structures at the international level are likely to be associated with straightforward referral. More complex governance structures are likely to be required where national firms have to cooperate more

intensively on particular projects or where the network seeks to specifically develop more 'international' legal capacities. Nevertheless, it is clear that this model of itnernationalisation appears attractive to both UK and German firms in spite of their different origins and trajectories.

2) Organic internationalisation

By this category we refer to firms which have gradually developed their own offices overseas. Here it is possible to discern a similarity of strategy in some large German and UK law firms but a 'path-dependent' difference in the operationalisation of the strategy. Thus, organic internationalisation for German firms almost invariably means extending into Eastern Europe with some limited growth elsewhere. Norr Steifenhofer Lutz (10th largest), for example, fits this model. Beiten Burkhardt Goerdeler (14th largest) has also opened offices in Eastern Europe (Budapest, Moscow, St Petersburg and Warsaw) but also has offices in Brussels, Beijing and Shanghai. Some of these moves into Eastern Europe can be clearly explained in terms of historic linkages but also more relevant recent experience in the privatisation of state companies arising from the reunification of Germany and the early restructuring of East German industry. In the UK, because of historical linkages, internationalisation is more into areas of colonial and English Law influence. For example, Norton Rose (10th largest in the UK) has offices in Bahrain and Dubai, Singapore, Hong Kong, Bangkok and Djakarta as well as in a number of European countries: however it has no links into the US. Ashurst (11th largest in the UK) has a similar pattern of slow organic growth with offices in Brussels, Frankfurt, London, Madrid, Milan, Munich, New York, Paris, Singapore and Tokyo, and a liaison office in New Delhi. Again, what is striking is the similarity of the trajectory of German and British top law firms rather than their differences.

3) **The creation of global law firms**:

By global law firms we refer to firms that have a presence in the key global cities. The term 'global cities' was first coined by Sassen to refer to the key nodes in the emerging international flow of capital during the 1980s. In her original specification it referred to London, New York and Tokyo (Sassen 1991). More recently, the work of Taylor, Beaverstock and others has developed this into an analysis of 'world cities' which refers to a more diverse but interconnected web of relations between cities, mainly still constructed around flows of capital (Taylor 2004). These cities are the sites of emerging economic and political power in the global world economy. They connect together the US (particularly through New York and Wall Street but also through Chicago) with Europe (in which London plays a special role due to its position within international capital and commodities markets, but within which Brussels, as the administrative centre of the EU, Paris and the German cities of Frankfurt and Berlin are also crucial nodes) with Asia (within which Hong Kong and Singapore play linkage roles into China which in turn has its own emerging 'world cities' of Shanghai and Beijing; Tokyo remains a key part of this but not as central as in Sassen's model). In all these cities, to varying degrees, corporate financing and corporate restructuring are key areas of business for corporate law firms. By global law firms, we refer to those firms which construct themselves in

such a way as to have a permanent and significant presence over these cities in the US, Europe and Asia. A number of points arise from this definition:

a) This is a concentrated form of 'global'; it does not refer to offices in all countries just in those areas where the bulk of corporate law activities take place. The idea of the global firm is therefore still very distinctive in law compared to other professional services such as accounting, management consultancy etc. where the term 'global' is used more indiscriminately to mean 'in (almost) every country'.
b) The biggest US law firms are not global in this sense. They are large by revenue because of their large home market. They are highly profitable because of the nature of their business, i.e. the extremely close tie to capital market activities on Wall Street. They are reluctant to extend overseas because of the fear that this will increase transaction costs for them whilst reducing their per partner profitability. On the definition put forward here, therefore, global law firms originate in the UK, not the US, nor from any other national business system. There are no German law firms which can claim a reach to the key 'global cities'.

How are we to interpret this British dominance of the 'global law firm' model? On the one hand it reflects a path dependent trajectory associated with the features of English law firms described earlier, i.e. entrepreneurial, international, close to economic activities and clients. German law firms lacked these features and although they have 'caught up' in certain respects (i.e. to become significant in certain parts of the world and able to access other areas through networks), they have not been able to establish the scale and scope of the UK based global firms. Following this logic, it might be argued that the UK global firms are going to extend their dominance in markets and regulatory arenas and this will lead to a growing Anglo-Saxonisation of the international legal arena. This is clearly a highly complex process but we want to shed some light on it from our initial researches on these global firms. In particular, we would argue that this label of 'global law firm' only makes sense in most cases, because these firms have merged with a major German law firm.

If we look at the structure of the firms which fit this category of global firm, we see this more clearly. For example, the following table presents data on partners in 5 of the global firms. Only in the case of Allen and Overy is Germany not the second largest group of partners in the firm. In Freshfield, the group of German partners is almost as big as that of UK partners. Even in Clifford Chance, the law firm with the largest US presence, German partners make up the second largest grouping.

(TABLE 4 HERE)

Another way to look at this is through the issue of turnover. In Freshfields, turnover in Germany is 23% of the global turnover compared to London being 41% of global turnover. The next largest turnover came from the Paris office (with £70m, about 9% of global turnover) and the US was only £24m. Clifford Chance has the most developed US position of the firms reflected in the fact that US turnover contributed around 23% of total (compared to London 41% and Germany 11%. In Allen and Overy, the second most

important office turnover wise (and partner wise) is the Netherlands with Germany third. In Linklaters and Lovells, the German office is second largest in terms of turnover.

This raises an interesting question of interpretation because looked at from the German point of view, the German arm of these global law firms is in three cases the second most significant grouping and in two cases the third most significant. German firms have become significant participants in these global firms. This is reflected more strongly in some firms than others. For example, Freshfields has been described 'as one-third English, one-third German and one-third the rest of the world'. Since its merger with Deringer-Bruckhaus, it has had 'two of almost everything: two senior partners and two heads of every practice group, one English, one German' (The Lawyer: 19 January 2004). Inside the firm, therefore, more complex dynamics are at work than a simple takeover by the British of the Germans. Nor is the result that these differences are wiped out and replaced by a 'global culture'. Similar points can be made about the other UK based global firms. The fact that German lawyers joined the UK firms not on a one-off basis (i.e. through external recruitment) but through en bloc mergers with an expectation of some continued autonomy in partnership areas is significant. Together with the data on partnership numbers and turnover it suggests that what has happened has not been the dismantling and disappearance of a separate German entity but its positioning inside a larger corporate body which itself is changing in order to manage its new transnational social space, e.g. in terms of developing new international forms of governance alongside new modes of exchanging knowledge and expertise between offices (Morgan and Quack 2005).

German lawyers and their firms have now created for themselves the capacity to achieve a global reach rather than either remaining locked into their national jurisdiction (as, for example, French lawyers tend to remain) or alternatively disappearing into a UK or US firm as might have been the case if the merger occurred within a plc structure rather than in a partnership context. An analogy might be drawn from the discussion in Kristensen and Zeitlin's analysis of subsidiary-HQ relations in a large manufacturing multinational (Kristensen and Zeitlin 2005). They argue that the Danish subsidiary saw the MNC as a vehicle for securing its own continued existence in the longer term by providing it with easier access to international markets. There was therefore a Faustian pact in which in order to survive in a global market, the local plant threw its lot in with the MNC. What Kristensen and Zeitlin then describe is how the actors in this local plant strategized within the broader MNC in order to secure their future on the basis of their existing expertise. They contrast this experience with other subsidiaries which found that being within the MNC effectively destroyed their pre-existing capabilities. It will be worthwhile to consider in future research how relations within the emerging global law firms reflect these sorts of processes and with what effects on lawyers from different jurisdictions[17].

This is related to the issue that underlying the creation of these firms are big questions about the costs and benefits of the global firm model. It is not at all clear that the scale of benefits from these mergers approaches those expected. Key partners may walk away from the new firm as a result of heightened surveillance and management whilst the sheer cost of managing across borders is high, e.g. in the Freshfield's example referred to, the

term used is a ‘Noah’s Ark’ model of management, two-by-two in all areas! Only where the management becomes more centralised are the costs likely to decrease but as the debate on the transition from the P2 model to the Managed Professional Bureaucracy model shows this is a highly problematic process (see e.g. the contributions in Brock et al. 1999).

In conclusion it can be argued that the global firm strategy/form is not simply an objective of UK law firms that results in the domination of the German legal landscape. It is also the outcome of German lawyers and German law firms wanting to open up for themselves wider global opportunities. Thus the prolonged period of courtship between British and German large law firms that occurred during the 1990s reflects the element of ‘choice’ necessarily involved where the firm structures are partnership based and coercive takeover is an impossibility. Furthermore, making this work in practice seems a long way off as these firms struggle with the types of local differences in labour markets, careers, expectations and reward strategies that continue to characterise a profession like law (see e.g. the discussions on these issues in the chapters by Morgan and Quack and Whitley in Morgan et al. 2005).

Conclusions

In summary, what we have shown is that in terms of internationalisation, the British and German experience has not been significantly different over the last decade in spite of substantially different starting points. A variety of strategies and structures have emerged as means of achieving this goal (which in turn has become a more differentiated goal itself). The two strategies of network internationalisation and organic internationalisation do not appear qualitatively or quantitatively different between the two countries. Network internationalisation seems common to both contexts, often linking comparably sized firms. Organic internationalisation also seems common though its direction appears historically influenced. The argument that the ‘global firm’ strategy is distinctive and only available to British law firms also needs contextualizing. It underestimates the significance of the absorption of German lawyers and law practices into these organizations. Controversially one might even describe this as a ‘Trojan horse’ strategy on the part of the Germans, getting inside in order to gain access (if not control) over something much bigger than they could have achieved without such a move.

Our results offer a paradox. On the one hand, we have demonstrated that these systems of law have been highly distinctive in terms of how the purpose of law is constructed, how lawyering is practised and organized, how law evolves and how it relates to business and industry. On the other hand we have shown that by the 1990s, the internationalisation trajectories in the two countries were similar in terms of a range of options that were identified and pursued. How do we reconcile this paradox? Broadly speaking, we find the answer to this paradox through a deeper understanding of firstly the German context and German law firms and secondly in theoretical terms in the need to broaden our conception of national business systems and the constraints which they create.

With regard to the first point, we offer the following interpretation of these processes from a German point of view. In the late 1980s and particularly the early 1990s, German MNCs were beginning their relatively dramatic shift away from export strategies towards growth through international acquisition. Without severing their links into the home based German system of finance, this transition clearly required accessing new international financial markets and alongside this a high level of expertise in new areas such as international M+As, international lending and international currency dealing. From the point of view of German corporate law firms, this was a significant threat to their future. Until the late 1980s they were not even 'national' in terms of scale in Germany, they certainly lacked any capacity to provide international advice. In these circumstances, it is not difficult to see that UK and US law firms could imagine that there were easy profits to be made advising German MNCs not only in their home contexts (i.e. London and New York) but even moving into Germany itself and employing local German lawyers to serve these new potential clients. Such a scenario could have resulted in most of the big corporate law business (which was on the point of explosive growth as a result of the various forces already discussed, i.e. the breakdown of the Soviet block, Europeanisation forces and the emergence of global regulation) being taken over by foreign firms and German lawyers acting a subsidiary role in these processes. Instead, however, of passively responding to this, German lawyers moved in two directions. Firstly they sought to establish the institutional conditions which would allow them to become 'national' not just 'local' by reforming the rules which restricted them to partnerships in one particular locality. Within a few years at the start of the 1990s, they had established substantial national law firms that gave them some sort of equivalency in size and income to the UK firms. It is worth noting in passing that French lawyers totally failed to achieve this sort of consolidation (Karpik 2000). Secondly they established various strategies for providing these international services on their own terms. It was only in 2000 that some German firms finally started the merger process with the biggest UK firms, by which time they had 10 years of experience of national consolidation and international work. Other firms built up their international expertise in different ways – through networks and through organic growth. In all these cases what occurred was not the destruction of German law firms but their renewal in the new international context. Inside Germany, the fundamental relationships between the law, the state and industry were also changing (Quack 2004) but this long term reconstruction of the 'German model' did not constrain the firms in their internationalisation processes.

This reflects a broader set of findings about the significance of the internationalisation of German firms and the response of the German system to globalization. Research on German manufacturing MNCs has revealed that from the 1990s they were highly active in acquiring and developing firms overseas. In doing so they were not constrained over much by the model which they operated in Germany itself. Inside Germany things only changed marginally and although learning was occurring as a result of these overseas operations it was incorporated carefully into Germany itself and without wholesale change in the system (see particularly the arguments in Yamamura and Streeck 2003). Arguably, the internationalisation of law firms has an analogy here. There were a small number of crucial changes internally regarding law firm organization but the embeddedness and complementarities of the German system meant that this only

occurred gradually. As with the manufacturing MNCs, however, this did not stop the law firms from defending their home market whilst also placing themselves more centrally in the internationalisation process. The German model of capitalism revealed yet again its adaptability in the face of wider environmental changes. Of course, this explanation is tentative. We have not accounted for the dynamics within the firms and the networks, how they might be evolving and how this might affect the positioning of German and British lawyers and law firms in the future. This goes beyond our capacities in terms of the data which we have used though it clearly offers itself as a crucial area for future research.

With regard to the second point concerning the theoretical underpinning of the national business systems analysis, it is clear that our approach is supportive of those reformulations of the argument which emphasize the openness of paths, the limits to path dependency, the role of actors in opening up new directions and the importance of the inter-penetration of national and international dimensions (Morgan et al. 2005; Djelic and Quack 2003). Strong path dependency arguments might well have led to the view that German law and German law firms were locked into a very nationally distinctive pattern of action that could not meet the challenge of internationalisation. We would argue that our paper reveals that this was not the case. There was room for manoeuvre in which actors could both reshape institutional constraints and take actions which drew them out of these constraints. There was no inevitability that they could achieve such a reshaping. Again, the French example reveals the difficulty of doing so. It was the fact that actors at various levels of the German system could work in concert that enabled this transformation to occur. Arguably this can be seen as arising from the distinctive nature of 'coordinated capitalism' though, nevertheless this was still under-determined. Finally what we have revealed is the intricate relationship between national and international contexts. As has been argued elsewhere (Morgan 2005), changes in the international environment can alter actors' calculations of the returns which they can get from continuing to reinforce traditional patterns of action within a national business system. If German lawyers had just accepted their position, their returns from playing in the game would have dwindled significantly. As it was, by integrating into the emerging international arena of corporate law-making they considerably increased their potential returns. There were incentives for them as actors to go off-path or rather to experiment with a new path. Over time, this has been reinforced by the increasing importance of international activities and processes for German MNCs as well as the broader expansion of potential business. They have set off on a new trajectory. Where it will lead is still unclear but at present it would be overly pessimistic in our view simply to construct this new path as a process of Anglo-Americanisation of German lawyers. A more complex process of reconstruction is occurring across and within national contexts and international firms.

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Table 1: Top Ten Law Firms in the UK (by number of lawyers) 2000/1: number of lawyers at home and overseas

	Turnover	Lawyers worldwide	thereof: outside of the UK	
	in Mio £	Number	number	in %
Eversheds	212	1880	220	11,7
Dibb Lupton Alsop	140	1160	60	5,2
Clifford Chance Pünder	-	2600	1600	61,5
Beachcroft Wansboroughs	-	949	2	0,2
Linklaters*	-	1221	360	29,5
Freshfields Bruckhaus Deringer	-	1852	1071	57,8
Lovells	-	1152	435	37,8
Herbert Smith	-	868	195	22,5
Allen & Overy	-	1226	560	45,7
CMS Hasche Sigle Eschenlohr Peltzer Schäfer	130	1410	230	16,3

Source: Own calculations based on Juve 2000/1.
* Linklaters international presence is underestimated here because the data is based on integrated partnerships only, and thus does not cover Linklaters multiple alliances.

Table 2: British top 15 firms by turnover 2002

Rank	Law firm	total turn-over (mill. €)	National origins	Number of local: total offices	Geographical spread of foreign offices	International network
1	Clifford Chance	1,394	UK	1:32	Global	Strategic alliances with national-based firms, progressing towards fuller integration and merger
2	Freshfield Bruckhaus Deringer	1,14	UK	1:28	Global	See above
3	Linklaters	1,026	UK	1:30	Global	See above
4	Allen & Overy	922	UK	1:25	Global	Opening foreign offices through poaching leading lawyers in the target market
5	Lovells	556	UK	1:26	Global	
6	Eversheds	406	UK	10:13	Copenhagen Brussels, Paris	Exclusive strategic alliance with firms in Asia and US, best friends networks, member of EEN*
7	Slaughter and May	361	UK	1:6	Brussels, Paris, New York, Singapore	Relationships with Hengeler and Müller (Germany) and Davis Polk (US) inter alia
8	Herbert Smith	344	UK	1:10	Europe/ CEE/ Asia	Relationships with Gleiss Lutz (Germany) and Cravath (US)
9	Dibb Lupton Alsop	332	UK	9:29	Europe, CEE and Asia	Allied firms in Sweden, France and Germany as part of DLA group
10	Norton Rose	292	UK	1:19	Europe, Middle East and Asia	Non exclusive referral network in the Americas
11	Ashurst	281	UK	1:11	Global	

	Morris Crisp					
12	Denton Wilde Sapte	252	UK	3:19	Europe, Africa, Middle East and Asia – withdrawal from Asia	Non-exclusive bilateral relationships with leading law firms throughout Europe
12	Simmons	252	UK	1:19	Europe, Middle East and Asia	
14	CMS Cameron and McKenna	248	UK firm Cameron and McKenna founded CMS together with law firms from Germany, Austria, the Netherlands and Belgium	2:13**	Europe, CEE, Asia**	CMS is an exclusively European mix of accounting and legal professionals registered in Brussels; Cameron and McKenna has an associated office in Toronto.
15	Hammonds	195	UK	5:16	Europe	

* EEN (European Environmental Network) is a network of nine European and US law firms specialised in environmental law.
** offices of British firm CMS Cameron and McKenna.
Sources: Websides and annual reports of law firms, download from June 2004; figures on turnover are based on JUVE Rechtsmarkt, October 2003.

Table 3: Selected cross-border mergers and alliances of German law firms, 1999-2001

Year	**Participating firms**	**Outcome**
July 1999	Hasche Sigle Eschellohr Peltzer Schäfer (Germany)	European law firm association CMS
	Strommer Reich-Rohrwig Karasek Hainz (Austria)	
	Von Erlach Klainguiti Stettler Willein (Switzerland)	
	Derks Star Busmann Hanotiau (Belgium/Netherlands)	
	Cameron McKenna (UK)	
January 2000	Pünder, Volhard Weber & Axster (Germany)	Clifford Chance Pünder
	Clifford Chance (UK)	
	Rogers & Wells (USA)	
January 2000	Boesebeck Droste (Germany)	Lovells Boesebeck Droste
	Lovell White Durrant (UK)	
August 2000	Feddersen Laule Ewerwahn Scherzberg Finkelnburg Clemm (Germany)	White & Case, Feddersen
	White & Case (USA)	
August 2000	Bruckhaus Westrick Heller Löber (Germany/Austria)	Freshfields Bruckhaus Deringer
	Freshfields (UK)	
September/October 2000	Schilling, Zutt & Anschütz (Germany) dissolved, partners split and join	Shearman & Sterling (USA)
		Allen & Overy (UK)
2000	Luther & Partner (Germany)	Andersen Luther mbH
	Andersen Freihalter (legal arm of Arthur Andersen, USA)	
January 2001	Oppenhoff & Rädler (Germany)	Linklaters Oppenhoff & Rädler
	Linklaters (UK)	

Sources: Juve 2000/1 (www.juve.de); International Centre for Commercial Law (www.icclaw.com)

Table 4: Top 10 Law Firms in Germany 2000/2001 (by number of lawyers)

	Number of Lawyers		Number of Partners		Number of Offices	
	Germany	Abroad	Germany	Abroad	Germany	Abroad
Freshfields Bruckhaus Deringer	363	1,850	148	441	9	30
Clifford Chance Pünder	351	3,187*	141	630	5	29
Oppenhoff & Rädler Linklaters & Alliance*	284	1,257	116	226	5	18
CMS Hasche Sigle Eschenlohr Peltzer Schäfer**	256	(1,400)	131	-	9	(18)
Wessing	213	29	122	2	7	3
Andersen Luther	201	2,950	58	415	11	94
Gaedertz	195	9	93	4	9	1
Lovells Boesebeck Droste	195	957	65	182	6	18
BBLP Beiten Burkhardt Mittl & Wegener***	187	266	43	-	7	21
White & Case, Feddersen	160	1,140	41	239	5	33

Source: Juve 2000/1 (www.juve.de) and own calculations,
*calculated on the basis of www.linklaters-alliance.com, including only Linklaters Oppenhoff & Rädler but not allied partners
** calculated on the basis of www.cmslegal.de, data in brackets refer to lawyers and offices of the overall European Association of CMS firms.
*** 'abroad' refers to the other three member firms of BBLP (Meyer Lustenberger, Switzerland; Moquet Borde & Associés, France; Pavia Ansaldo, Italy)

Table 5: Germany top 15 firms by turnover 2002

Rank	Law firm	total turn-over (mill. €)	National origins	Number of local to total offices	Geo-graphical spread of foreign offices	International networks
1	Freshfields Bruckhaus Deringer	285	UK-Germany	6:28	Global	-
2	Clifford Chance Pünder	151	UK-Germany	4:32	Global	-
3	Hengeler Müller	149	Germany	3:7	Brussels, London, Budapest, Prague	Relationships with Slaughter & May (UK) and Davis Polk (US) inter alia
4	Linklaters Oppenhoff & Rädler	145	UK-Germany	4:30	Global	-
5	CMS Hasche Sigle	125	German firm Hasche Sigle founded CMS together with law firms from UK, Austria, Netherlands and Belgium	9:14**	Brussels, Prague, Belgrad, Moscow, Shanghai **	CMS is an exclusively European mix of accounting and legal professionals registered in Brussels
6	Lovells	106	UK-Germany	5:26	Global	Associated offices in Budapest, Vienna, Zagreb
7	Gleiss Lutz	93.8	Germany	4:7	Brussels, Prague, Warsaw	Close relationship with Herbert Smith (UK) and Stibbe (NL/Belgium); loose relationship with a number US firms including Cravath

8	Baker & McKenzie	83	US	4:61	Global	5 Associated offices in Asia and Latin America, 2 correspon-dent law firms in Asia
9	EY Law Luther Menold (1)	82.8	US-Germany	12:16	Brussels, Budapest, New York, Singapore	International network of independently practicing law firms in 30 countries, associated with E&Y; best friends relation-ships with law firms in jurisdictions not covered by EY Law
10	Nörr Stiefenhofer Lutz	82.5	Germany	5:10	CEE	Member of lex mundi, best friends relationships with law firms in West Europe and US
11	Haarmann Hemmelrath	78.5	Germany	9:21	Europe, CEE, Asia	Cooperation with law firms in Austria, Singapur and Shanghai
12	Shearman & Sterling	73	US-Germany	4:	Global	-
12	Taylor Wessing	73	UK-Germany	5:12	Europe, Middle East, Asia	Member of EEN, TechLaw Group, Unilaw and World Law Group*
14	Beiten Burkhardt Goerdeler	70	Germany	8:17	Europe, CEE, Asia	-
15	White & Case, Feddersen	67	US-Germany	6:38	Global	-

* EEN (European Environmental Network) is a network of nine European and US law firms specialised in environmental law; TechLaw Group combines worldwide 4,000 lawyers from US and European law firms which have a strong practice in new technologies, media, health system etc.; collaboration is limited to individual mandates; UNILAW is an international non-exclusive network of European law firms which was already founded in the 1970s to facilitate referals; membership is restricted to one firm per country; the World Law Group combines more than 30 independent international law practices world wide on a non-exclusive basis; membership is restricted to one firm per country.
** offices of German law firm CMS Hasche Sigle.

Sources: Websides and annual reports of law firms, download from June 2004; figures on turnover are based on JUVE Rechtsmarkt, October 2003.

Table 6: National locations of partners in the top 5 UK global law firms, 2004

	Freshfield	Clifford Chance	Linklaters	Lovells	Allen & Overy
UK	**179**	**232**	**204**	**162**	**190**
Germany	**166**	**112**	**95**	**80**	**30**
France	38	29	27	22	19
Italy	20	23	3	10	24
Belgium	16	9	35	9	26
Austria	14				
Spain	13	21	10	2	4
Netherlands	13	24	2	12	39
Luxembourg		5	11		4
Portugal			5		
Sweden			28		
Europe total	**459**	**455**	**420**	**297**	**336**
Europe share	**87.93%**	**71.09%**	**84.68%**	**87.10%**	**80.19%**
Russia	5	5	6	2	3
Hungary	1	4	3		3
Poland		5	7	5	5
Czech Republic		2	5	2	4
Slovakia	0		2		2
Romania			1		
Eastern Europe total	**6**	**16**	**24**	**9**	**17**
Eastern Europe share	**1.15%**	**2.50%**	**4.84%**	**2.64%**	**4.06%**
USA	18	109	11	16	26
North America total	**18**	**109**	**11**	**16**	**26**
North America share	**3.45%**	**17.03%**	**2.22%**	**4.69%**	**6.21%**
China	22	32	21	15	26
Japan	9	14	6	2	
Singapure	4	5	5	2	6
Thailand	3	5	6		4
Vietnam	1				
Asia total	**39**	**56**	**38**	**19**	**36**
Brazil		2	3		
United Arab Emirates		2			4

TOTAL	**522**	**640**	**496**	**341**	**419**
share UK	**34.29%**	**36.25%**	**41.13%**	**47.51%**	**45.35%**
share Germany	**31.80%**	**17.50%**	**19.15%**	**23.46%**	**7.16%**
Source:					

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Table 7: Turnover in Global Firms 2002

Turnover	Freshfield	Clifford Chance	Linklaters	Lovells	Allen & Overy
London	330	398	378	240	362
Germany	180	109	102	70	34.6
Global	800	978	720	390	647
UK as % of global	41%	41%	53%	62%	56%
Germany as % of global	23%	11%	14%	18%	5%
UK and Germanyas % of global	64%	52%	67%	79%	61%

Figures calculated from The Lawyer Top 100 2003

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