



Agenda Setting Power, Power Indices, and Decision Making in the European Union

GEORGE TSEBELIS

Department of Political Science, University of California at Los Angeles

and

GEOFFREY GARRETT

*The Wharton School, University of Pennsylvania
E-mail: garrett@wharton.upenn.edu*

The effective end in the mid-1980s of unanimity voting in the European Union has greatly increased interest in its policy-making process. Two basic frameworks have been offered to understand legislative dynamics in Europe: power index analyses of bargaining in the Council of Ministers based on cooperative game theory; and, noncooperative institutional analyses of the interactions among the Council, the Commission, and the European Parliament. We argue that the institutional approach generates considerably more insight into European policy making than does power index analysis. There are two major weaknesses in the power index approach. First, it fails to take into account the effects of differences in policy preferences of member governments on bargaining dynamics in the Council. Second, power index studies underestimate the important roles played by the Commission and the European Parliament under most of the legislative procedures used in Europe today. Our institutional analysis remedies these weaknesses by analyzing the impact on policy outcomes in terms of differences in the institutional location of agenda-setting power and veto power.

I. Introduction

The increasing use since the mid-1980s of qualified majority voting (QMV) in the Council of Ministers of the European Union (EU) has reinvigorated analyses of its

The authors would like to thank participants at the Conferences on Constitutional Law and Economics of the European Union, Saarbrücken, September 2 to 5, 1995 for numerous helpful comments on an earlier version of this paper. Robert Cooter provided an excellent critique of the penultimate draft. We thank Heiner Schulz for helpful comments and Neal Jesse and Amie Kreppel for valuable research assistance. George Tsebelis would like to recognize financial support from the Simon Guggenheim Foundation, and NSF grant #SBR 9511485.

policy process. In the Luxembourg compromise period—from 1966 until the ratification of the Single European Act (SEA) in 1987—all European legislation could be vetoed by any member government. As a result, decision making in Europe resembled that in most other international regimes. There was a strong *status quo* bias that could only be overcome through issue linkage, threats, financial inducements, and the like.¹ With the SEA, this all changed. European legislation has proliferated, as have academic studies of the legislative process. Two basic approaches can be identified. The first creates power indices for national governments in the Council of Ministers based on computations of the portion of all mathematically possible winning coalitions to which each government is pivotal (that is, without which a coalition would fall short of the QMV threshold).² The second approach analyzes European decision making in terms of the strategic interactions among the Council, the Commission, and the European Parliament based on the policy preferences of actors in these institutions and on the location of agenda-setting power and veto power under the EU's various legislative procedures.³

This paper argues that the institutional approach generates considerably more insight into the EU's legislative processes than does power index analysis. Most power index studies ignore the policy preferences of member governments in the Council. This leads them systematically to overestimate the power of governments that generally assume extreme positions (especially from big countries, notably the United Kingdom) and systematically to underestimate the power of more centrist governments (especially from smaller countries such as the Benelux group). Even studies that weigh power indices by policy position still generate misleading results because they fail to take into account the impact of the relative position of countries on strategic bargaining in the Council.⁴ Moreover, all power index analyses fail to take into account the impact of the SEA and the Maastricht Treaty on European Union (TEU) on strategic interactions among the Council, the Commission, and the European Parliament.

This paper highlights the legislative effects of variations in the institutional location of "agenda-setting power" (the ability to make proposals that are difficult to amend) and "veto power." While the Council retains veto power under the "consultation" procedure, this procedure grants agenda-setting power to the Commission. The Commission shares agenda setting with the Parliament under the "cooperation" procedure (Article 189c, TEU). The use of these two procedures since the mid-1980s has resulted in legislation that often imposes on members states EU standards that are considerably more stringent than the pivotal government under QMV in the Council would prefer. In this important sense, the demise of the Luxembourg compromise has significantly increased the pace and scope of European integration (as the signatories of the SEA intended).

This situation was reversed at Maastricht with the creation of the "codecision" procedure (Article 189b, TEU). Codecision does grant the Parliament veto power over internal market issues. But it also makes the Council the effective agenda setter, while limiting the role of the Commission. We contend that, so long as the preferences of national governments and members of the European Parliament remain as they are today, codecision can be expected to slow down the pace of European market integration in coming years. This is because the critical actor is the pivotal government (under QMV) in the Council, rather than the Commission or the Parliament.

The remainder of the paper is divided into four sections. Section II discusses the limitations of power index analysis. Section III presents our analysis of the strategic interactions among the Council, the Commission and the European Parliament under

the EU’s different legislative procedures. We conclude in Section IV by highlighting the implications for further research on the EU of the differences between our approach and the power index perspective.

II. What’s Wrong with Power Index Analyses?

Let us begin by assuming—along with most studies based on the calculation of power indices—that the Council of Ministers is the preeminent decision maker in the EU. Consider a seven-member Council in which each member’s vote is weighted equally and five votes constitute a qualified majority. This is the simplest way to represent decision making under the qualified majority thresholds that have obtained in actual configurations of the Council.⁶ From the power indices perspective, the ability of a government to influence Council deliberations is a function of the portion of all mathematically possible “winning” qualified majority coalitions to which it is pivotal (i.e., those coalitions that would cease to attain the qualified majority threshold if the government defected). To determine a government’s power, one simply divides the number of “vulnerable” coalitions to which it is pivotal by the total number of vulnerable coalitions.

Formally, if V is the set of all vulnerable coalitions, for every $C \in V$, set $V_i(C) = 1$ if actor i is pivotal to C ; otherwise $V_i(C) = 0$. The power index of actor i in a body with n members is then calculated thus⁷:

$$P_i = \frac{\sum_{C \in V} V_i(C)}{\sum_{i=1}^n \sum_{C \in V} V_i(C)} \tag{1}$$

The normalized power index of a government is a score between 0 and 1, and the sum of all these indices is 1. In the case of a 7-member Council with equal voting weights, there are 21 ($7!/5!/2!$) ways that 5-member coalitions can be put together. Each of the seven governments would be pivotal to 15 ($= 6!/(4!2!)$) of these coalitions. Hence, the power of each government would be the same: $1/7$.

The fundamental limitation of power index analysis is that it takes into account neither the policy preferences of member governments nor the institutional context in which policies are made in the EU. This section elaborates the problems inherent in the power index perspective; we then develop our argument in Section III. Throughout, we analyze a one-dimensional policy space for simplicity of presentation. However, our argument holds in any number of dimensions.⁸

Standard Power Indices

Assume that the members of the Council of Ministers have Euclidean preferences (“ideal points”) that can be represented on a one-dimensional policy space from less to more European integration (see Figure 1). Recall that from a power index (PI)

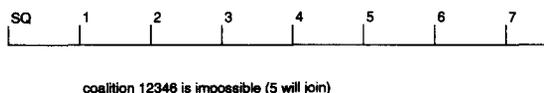


FIG. 1. Power indices and connected coalitions.

perspective, each member is equally powerful ($PI_n = 1/7$). How reasonable is this conclusion? Consider the coalition 12346. According to the power index literature this coalition has a probability $1/21$ of occurring. So long as members of the Council have the policy preferences depicted in Figure 1, however, the probability that 12346 will occur is actually zero. This is because there is no policy proposal that members 1, 2, 3, and 4, with 6 would agree to that 5 would not also support.

To demonstrate this, assume that the *status quo* is to the left of Government 1. All five members of the coalition 12346 prefer policy outcomes that are closer to their ideal points than is the *status quo* (for example, at the preferences of Government 1). But so does Government 5. When a vote is taken in the Council of Ministers, members 1, 2, 3, 4, and 6 cannot stop Government 5 from voting with them. A similar argument could be made if the *status quo* were somewhere between 1 and 6. There is no proposal that Governments 1 and 6 would both support. In these collectively exhaustive and mutually exclusive cases, the coalition 12346 would not arise.

Coalitions such as 12346 cannot occur when one takes the policy preferences of governments into account, because they are not *connected* (that is, they do not include a member whose preferences are located between the preferences of members in the coalition). As a result, an agreement among the members of the coalition either is not possible, or if an agreement is possible, the excluded member will go along. This coalition is not decisive since it can reduce its size by one and still win. Consequently, nonconnected coalitions do not form when voting is done on the basis of policy positions.

The nature of voting over policy in the Council of Ministers is very different from the case of forming a coalition government.⁹ Parties in a coalition government can exclude a would-be (connected) member from participating in government (that is, holding cabinet portfolios). Moreover, they have motives to do so—for example, to increase their shares of the perquisites of office. This is impossible in the Council of Ministers. No Euro-government is formed. The Council simply votes on individual policy matters *seriatim*. There are no perquisites inherent in being in the majority on any issue. Moreover, member governments are free to vote for any policies they choose. While conventional power indices might generate insights into the dynamics of coalition government formation, they are powerless with respect to policy formation in the Council of Ministers.

The possibility that oversized coalitions will form should also be considered from a power index perspective. Assume now that the *status quo* in Figure 1 is located far to the left of Government 1, and that a decision to implement a policy at Government 4's ideal point is proposed. All the members of the Council prefer Government 4 to the *status quo*. If one were to allow for oversized coalitions, three more could form: 123456, 234567, and 1234567. These should be included in the computation of power indices.

The consequences of the biases introduced by the unrealistic assumptions of nonconnectivity and decisiveness are serious. Here we only analyze the nonconnectivity assumption, although extension to the case of oversized coalitions is straightforward. There are only three connected minimal winning coalitions in Figure 1: 12345, 23456, and 34567. Members 1 and 7 would participate once each, members 2 and 6 twice each, and 3, 4, and 5 all three times. Thus, a more realist connected PI would be: $PI_{(1)} = 1/15$, $PI_{(2)} = 2/15$, $PI_{(3)} = 3/15$, $PI_{(4)} = 3/15$, $PI_{(5)} = 3/15$, $PI_{(6)} = 2/15$, $PI_{(7)} = 1/15$.

Thus, even though the voting weights of all members in our example are the same—and hence each member would be considered equally powerful by conventional calcu-

lations of power indices—the influence of these countries over policies is clearly related to their centrality in the policy space.

Power Indices with Policy Preferences

Recent work by Mika Widgrén attempts to integrate policy positions into the basic power index framework. Widgrén acknowledges that conventional power indices assume that the preferences of actors are “homogenous,” that is, the probability that each will vote for a given measure is the same. He suggests, however, that when this is unrealistic—as in manifestly the case for governments in the Council of Ministers—one can take into account the impact of “partial homogeneity” (i.e., heterogeneity in policy positions) by weighting power indices by the probabilities that members of a coalition will vote for a given measure. To illustrate Widgrén’s argument, consider the following example based on the division of government preferences into three discrete groups.¹⁰ Now divide governments in the Council of Ministers into likely “supporters” of a proposal to increase radically the level of integration in the EU, likely “opponents,” and governments that are “undecided.” The probability that “supporters” will vote for the proposal is .8; that for “undecideds” is .5; and .2 for “opponents.” Assume that Governments 1, 2, and 3 in Figure 1 are the opponents, Governments 4 and 5 are undecided, and Governments 6 and 7 are the supporters of the legislative proposal.

Widgrén’s approach is to weight a conventional PI calculation by the probabilities that different members of a specific coalition will vote for a given proposal. In our example, the coalition 12345 has probability $(.2)^3(.5)^2$ (= .002) of occurring; 12346 has probability $(.2)^3(.5)(.8)$ (= .0032), whereas 34567 has probability $(.2)(.5)^2(.8)^2$ (= .032). These calculations suggest that coalition 34567 is ten times more likely to occur than coalition 12346. But if one really takes into account the impact of policy preferences on coalition building, coalition 12346 cannot form because it is not connected. In other words, the (conditional) probability that Government 5 will join the coalition 12346 is 1.0 in our spatial model. But it is only .5 according to Widgrén.

To assess the relevance of spatial positioning, let us examine one of the real world applications in Kirman and Widgrén’s analysis—the EU budget.¹¹ Two items dominate the budget: regional development assistance and the common agricultural policy (CAP). Accordingly, Kirman and Widgrén array the preferences of member governments on two dimensions: national per capita gross domestic product and the share of agriculture in the labor force (poorer countries with large agricultural sectors want to increase the size of the EU budget because it redistributes wealth to them). The spatial location of national preferences over the EU budget is presented in Figure 2. As is well known, there is a strong correlation between the two dimensions. The wealthier, less agricultural countries of northern Europe cluster quite tightly in the upper-left corner, while the poorer and more agricultural members of the EU spread out towards the lower-right corner.

What leverage does this information give us over the likely outcome of budgetary negotiations? Luxembourg, the United Kingdom, Sweden, and Italy define the “periphery” of a quadrangle that includes six other countries that might be considered the EU “core” on budgetary issues: Germany, Belgium, France, Denmark, the Netherlands, and Austria. Suppose that we learn from an authoritative source that the peripheral countries have decided to accept a certain budget proposal. What are the implications of this piece of information?

In our model, this plan will be supported by the core members with probability 1. For

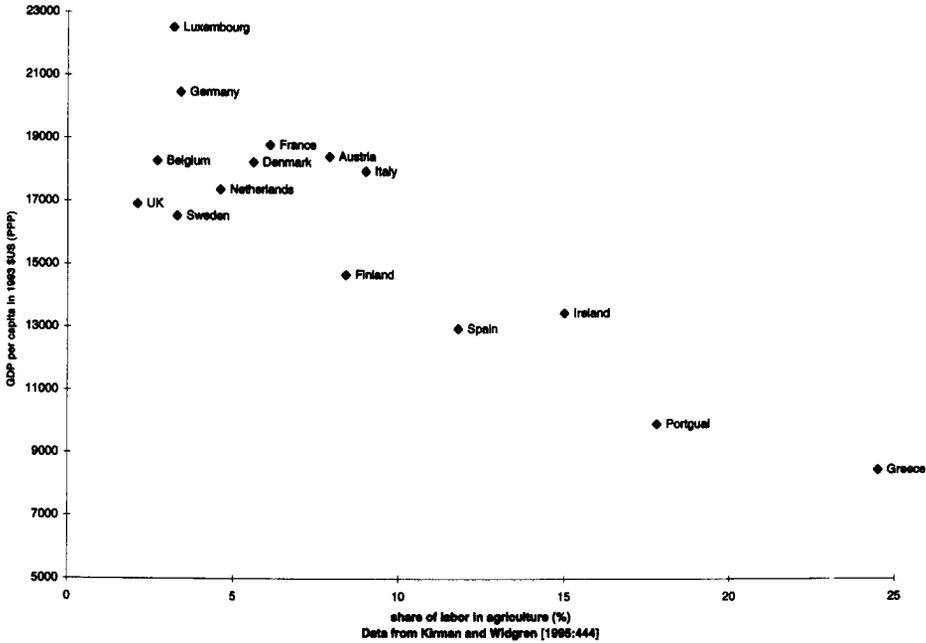


FIG. 2. Two-dimensional preferences over the EU budget.

Kirman and Widgrén, however, the likelihood that the plan would be supported by these countries would continue to be a multiplicative function of the unconditional probabilities that each country would support the plan. Unless these probabilities were one for every country (i.e., national preferences were homogeneous rather than heterogeneous), Kirman and Widgrén would conclude that the chances of the core's supporting the budget plan would be considerably less than 1.

Bringing in the Commission

We have accepted to this point the notion that one can explain policy making in the EU by focusing exclusively on bargaining among member governments in the Council of Ministers. This assumption, however, is inappropriate, because the Commission and the European Parliament also play important legislative roles in the contemporary EU. Kirman and Widgrén's recent paper is the only PI analysis of which we are aware that explicitly includes the impact of an actor outside the Council of Ministers—the Commission—on decision making. Nonetheless, it still suffers from the same basic problem that plagues all analysis that does not examine the strategic choices facing different actors.

Kirman and Widgrén propose an ingenious way of introducing the Commission into their PI calculations.¹² According to the rules of most of the EU's decision making procedures (see Section III for details), legislation can be adopted either by agreement of the Commission and a qualified majority of the Council (i.e., five out of the seven members in our example), or by unanimity in the Council. From a PI perspective, there are now 22 possible winning legislative coalitions.¹³ There are 21 combinations of the form 12345C (five members of the council plus the Commission); there is also a single

unanimity coalition in the Council (1234567). One can now recalculate the PIs for each government in the Council and for the Commission on the basis of the number of coalitions to which each is pivotal.

If our general argument is accepted, however, it is clear that only the three connected qualified majority coalitions in the Council should be included in the analysis. Moreover, the introduction of the Commission restricts the possibilities even further. Consider the preference configuration presented in Figure 3, where the Commission (C) is to the right of the last country (that is, the Commission is in favor of more European integration than is any member state).¹⁴ A coalition of 12345 and the Commission is not possible because it excludes Members 6 and 7 who have intermediate preferences. Similarly, a coalition 23456 and C is impossible, because 7 will join. Thus, only one of the three possible qualified majority coalitions in the Council can form, if the agreement of the Commission is required for passage of legislation: 34567C. If we introduce the nonminimal coalitions, then there are actually three coalitions that could form to pass legislation: 34567C, 234567C, and 1234567.¹⁵ Calculating PIs on the basis of the 22 mathematically possible coalitions in the Council and the Commission will thus generate extremely misleading results.

There is, however, a more serious problem with the way Kirman and Widgrén analyze the role of the Commission. According to the procedures of the EU, the Commission is not just one potential member of a legislative coalitions. Rather, the Commission has a monopoly over introducing legislative proposals around which Council coalitions form. Given the preference distribution depicted in Figure 3, it is clear that the Commission will try to avoid the situation where its proposals will be rejected by all Council members (that is, where unanimous coalitions in the Council will form).

If the *status quo* is to the right of C, the Commission can propose its own ideal point and have it adopted by the coalition 34567. If the *status quo* is between 7 and C, the best that the Commission can do is propose the ideal point of Member 7, and a unanimous Council will accept its proposal. If the *status quo* is anywhere between 3 and 7, however, there is no coalition that can upset it. Finally, if the *status quo* is to the left of 3, the Commission can propose 3 and this will be adopted by the coalition 34567. Thus, simply acknowledging that the Commission makes proposals to the Council—the most basic institutional facet of EU decision making—introduces strategic assessments on the part of the Commission and the Council members that cannot be explored from a PI perspective. We now turn to a more complete analysis of the legislative procedures in the EU.

III. The Institutional Determinants of Decision Making in Europe

The balance of legislative power between the Council, the Commission, and the Parliament varies systematically in the contemporary EU with the procedures under which decisions are made.¹⁶ As noted above, in almost all of the procedures the right to initiate legislative proposals is vested solely in the Commission.¹⁷ However, this does not necessarily give it effective control over the policy-making process. The Commission



FIG. 3. The Council of Ministers and the Commission.

cannot keep issues off the agenda. Since the Treaty of Rome, the Commission has been bound to make proposals when requested by the Council. This power was extended to the Parliament at Maastricht. More importantly, the fact that the Commission makes the first proposal does not mean that it can always constrain—much less determine—the ultimate proposal that is voted on in the last stage of the legislative game.

In this section, we analyze decision making in Europe in terms of institutional variations in the location of “agenda setting” power (the ability to make proposals that are difficult to amend) and “veto” power (the ability to ensure that the *status quo* is maintained). To do this, we should begin by describing the assumptions and methods that underpin this analysis.

As in the preceding sections, we base our analysis on a one-dimensional spatial model presented in Figure 1 (in which the Council has seven members with equal voting weights). Our analysis can be generalized in multiple dimensions, but we examine the one-dimensional case for ease of presentation.¹⁸

We assume that the *status quo* is a policy that reflects the preferences of the least integrationist government in the Council. This can be understood as the outcome of intergovernmental bargaining under the Luxembourg compromise that dominated decision making until the ratification of the SEA (see below). All the other relevant actors—the other members of the Council, the Commission, and the Parliament—prefer to increase the level of integration in the EU. This is the scenario that best describes the environment that has obtained since the demise of the Luxembourg compromise. We ultimately relax this assumption to analyze the possibilities for rolling back integration under the codecision procedure.

Consistent with the qualitative literature highlighting the vested interests of Commissioners in vigorously pushing forward the integration agenda, we model the preferences of the Commission (more precisely, the median voter in the College Of Commissioners) to be more extreme than those of any member of the Council (as in Figure 3).¹⁹ Furthermore, we also assume that the preferences of the Parliament (the preferences of the median voter on the floor of the Parliament) are similar to those of the Commission.²⁰ We relax this assumption later to take into account the possibility that the degree of citizen control over Parliamentarians will increase in time.

Our analysis focuses on the last steps of different decision-making procedures in the EU today. For these last steps we assume complete information, that is, that all actors know each other’s preferences and the location of the *status quo*.²¹ We also assume that the actors engaged in EU policy making believe that it is not feasible in the short run to reintroduce a policy issue once it has gone through the relevant procedure.²² Under this framework, the last two stages of each EU decision-making process are pivotal: Which actor makes the final proposal? To whom? Under what voting rules? We now address these questions with respect to the major decision-making procedures in the EU today—assent, consultation, cooperation, and codecision.

The Assent Procedure

Under the Luxembourg compromise that effectively governed decision making in the EU from at least 1966 until 1986, the Council of Ministers dominated the policy-making process. Although the formal right to propose lay exclusively with the Commission, proposals could only become law if they were supported unanimously in the Council. This effectively gave all the decision-making power to the government with the least

interest in changing the *status quo* (Government 1 in Figure 4). Some issues today are still dominated by lowest-common-denominator pressures in the Council.²³ First, unanimity among EU members is necessary for treaty revision, for the EU's external relationships, and for common foreign and security policy and cooperation in justice and home affairs. Second, some contentious policy issues—including indirect taxation, exchange rate parities for Economic and Monetary Union, industrial policy, and some environmental matters—are decided unanimously in the Council, but on a proposal made by the Commission. Since the Council can amend Commission proposals unanimously, however, the Commission has no real agenda-setting power in these cases.

The final legacy of the Luxembourg compromise is more interesting. Numerous areas are covered by the assent procedure in which the Council votes on a Commission proposal under a unanimity rule, subject to the assent of a majority in the Parliament. The policies covered by assent include establishing citizenship rights, cohesion funds, electoral rules for the European Parliament, and the accession of new members. The introduction of a parliamentary veto of Council decisions would seem to be a significant departure from the Luxembourg compromise. So long as the median voter in the Parliament is more integrationist than the least integrationist member of the Council, however, Parliament will not exercise its veto right.

In sum, in all those instances where voting in the Council is by unanimity, including the assent procedure, one can ignore the roles played by other EU institutions. For all the other areas of EU jurisdiction, however, Council votes have been by qualified majority since 1986. We now demonstrate that the consequences of qualified majority voting vary with the relationships among the Council, the Commission, and the Parliament.

The Consultation Procedure

The simplest procedure using qualified majority voting in the Council is the consultation procedure elaborated in the Treaty of Rome, but blocked until 1986 by the Luxembourg compromise (see the top panel of Figure 5). Today, the consultation procedure applies to numerous areas, including the free movement of capital, competition policy, and industrial subsidies. Under qualified majority voting, the Commission wants to make the most prointegrationist proposal that will be supported by a qualified majority in the Council. Given the situation depicted in Figure 4, this coalition is clearly 34567. Moreover, Government 3 replaces Government 1 as the pivotal player in the Council. The Commission will make the proposal that is closest to its ideal point and

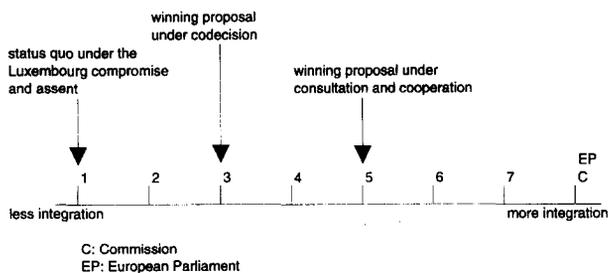


FIG. 4. Legislative procedures and policy outcomes.

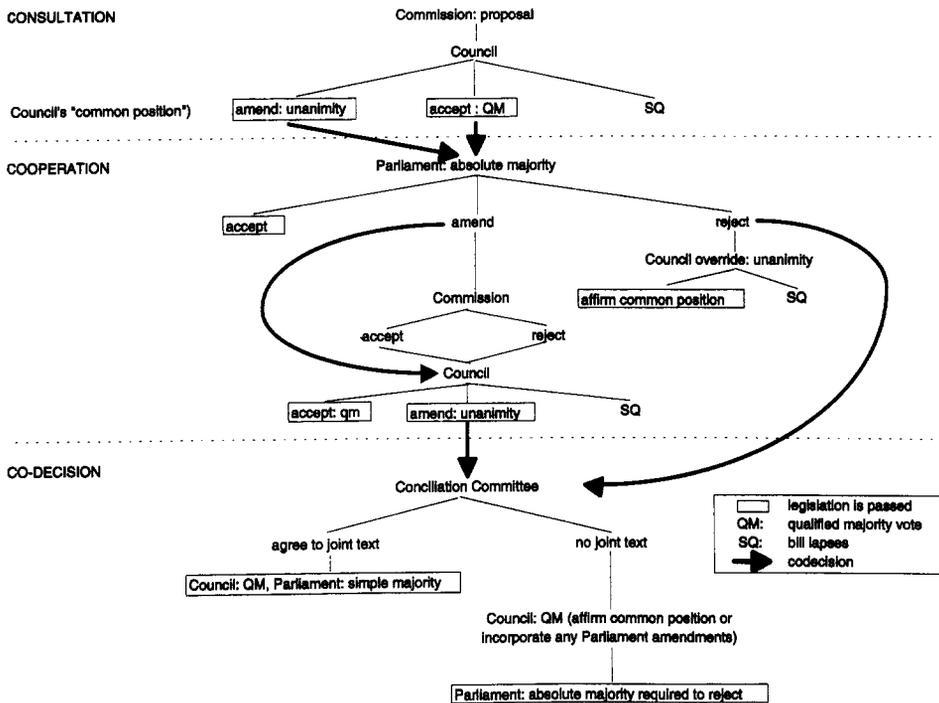


FIG. 5. Consultation, cooperation and codecision.

that Government 3 prefers to the *status quo* (and to all solutions that can defeat the *status quo* unanimously).

It is thus clear that the pace of European integration would increase under the consultation procedure. Unlike the Luxembourg compromise, recalcitrant governments can be outvoted. Moreover, since agenda-setting power lies with the Commission, the pivotal player in the Council will not be able to get policy at its ideal point. Instead, the Commission will propose a more integrationist policy, but one that the pivotal member of the Council still prefers to the *status quo*.

The Cooperation Procedure

The cooperation procedure was introduced in the SEA. Until Maastricht, the most important issues subject to it concerned the internal market (the "1992" agenda). Today, the cooperation procedure (Article 189c of the Maastricht treaty) applies to areas including social policy (although Britain opted out of this provision), implementation of regional funds, research and technological development, and a number of environmental issues.

The most important institutional difference between the consultation and cooperation procedures is that the European Parliament gained "conditional agenda setting power" (see the middle panel of Figure 5).²⁴ Under cooperation, the Parliament can amend Commission proposals. If these are accepted by the Commission (which is the case for three out of four amendments), the new proposal is then presented to the

Council, which votes using the same rules that pertain under consultation.²⁵ If the Parliament's preferences are similar to those of the Commission, the policy consequences of the cooperation procedure will be the same as those under the consultation procedure. The Commission and the Parliament will agree to make the most prointegration proposal that will win the support of a qualified majority in the Council. In the context of Figure 4, this proposal would be marginally to the left of Government 5's ideal point, because this is the most integrationist policy that the pivotal Government 3 prefers to the *status quo*.

Given the proliferation of internal market legislation since the mid-1980s, it is relatively easy to delineate the policy consequences of the cooperation procedure—and specifically the agenda-setting power it grants to the Commission and the Parliament. The most important of the consequences of the introduction of the cooperation procedure is that policy outcomes may be outside the Pareto set of member governments—something that was inconceivable under the Luxembourg compromise. Consider the following example.

Most observers believe that the EU's recent legislation on health and safety at work issues is more advanced (i.e., affords more protection to workers) than legislation in any of the member states.²⁶ Volker Eichener concluded that "(t)he European Community definitely adopted the highest health and safety at work level which is to be found among the 12 Member States."²⁷ Similarly, Giandomenico Majone argued that "(i)t is difficult to find equally advanced principles (like the 'working environment') in the legislation of major industrialized countries, inside and outside the EC. In order to explain such policy outputs we need new, more analytic theories of the policy process in the Community."²⁸

How was it possible for European legislation to be more stringent than that in any member state? One potential line or argument would be that while EU legislation may go further than the regulations of member countries, the existing national laws were not at the ideal points of the individual governments. Each government might have wanted more advanced regulation, but they were unable or unwilling to adopt it unilaterally. According to this account, EU members used supranational institutions to solve domestic problems. This is not plausible, however, since EU legislation clearly imposes a heavy burden on the ability of European products to compete outside the Union. Given that only around two-thirds of total EU trade is internal, it is most unlikely that governments would have been unconcerned about the external competitiveness of their national economies.

The second explanation for standard for health and safety at work being higher at the EU level than in any member state concentrates on the strategic interactions inherent in the cooperation procedure. Consider the following modification of Figure 4. Let the first three member governments remain at the same points. But assume that the ideal points of the other four governments are tightly packed around Point 4 (this is plausible with respect to health and safety at work, since standards in most northern European countries are quite similar). In this case, the outcome of the cooperation procedure (still at Point 5 in the figure, but now with no government holding this preference) is outside the Pareto set of the member governments.

This outcome assumes that Governments 1 and 2 would not be willing to support a Council amendment at regulation at Point 4 (recall that the Council can always amend proposals unanimously), and hence their intransigence would leave the qualified majority (34567) with no other choice but to accept Point 5. The behavior of Governments 1 and 2 would thus be "irrational," but it can be explained if one takes into account

domestic political considerations in the first two countries (in this example, one could plausibly think of these countries as Greece and the United Kingdom). Governments 1 and 2 may prefer to be on the record as having voted down any significant increase in regulation, rather than to have decreased marginally the level of regulation (from Point 5 to Point 4)—if support of regulatory measures is very unpopular domestically.²⁹

The basic point to be derived from this example is that, given the institutional innovations of the SEA, one should not be surprised if outcomes of the legislative process sometimes are outside the Pareto set of member governments. Under certain very plausible configurations of government preferences, this type of outcome will be the product—a very dramatic product—of the agenda-setting powers vested in the Commission and the Parliament.

The Codecision Procedure

A final decision-making procedure was added at Maastricht. The codecision procedure (Article 189b) replaced the cooperation procedure for internal market matters, and it also applies to new areas of EU jurisdiction such as education, culture, public health, and consumer protection. There are two critical institutional differences between cooperation and codecision (see the bottom panel of Figure 5).

First, the agenda-setting power of the Commission is greatly reduced under codecision, because Parliament's amendments of legislation do not go back to the Commission before they are reconsidered by the Council. Moreover, new proposals effectively can be made if a conciliation committee is convened.

Second, the roles of the Council and the Parliament are reversed from cooperation to codecision. Under the new procedure, if parliamentary amendments to the Council's "common position" (i.e., a Commission proposal that won the support of a qualified majority in the Council) are not acceptable to a qualified majority in the Council, a conciliation committee is convened. If this committee (comprising all members of the Council and equal representation from the Parliament) cannot agree to a joint text, proposal power effectively reverts to the Council. In the final stage of the game, the Council produces the final text of the law unless an absolute majority in the Parliament vetoes it.

One can begin analyzing the likely policy consequences of codecision by assuming that the structure of actors' preferences and the *status quo* are those in Figure 4. It is obvious that Coalition 34567 would offer the best deal to the Parliament and hence it would generate that proposal on which the Parliament would vote. With respect to the bargaining within the Council coalition, any solution acceptable to Government 3 would also be accepted by the other members of the coalition. This confines policy outcomes to the segment between 3 and 5 in Figure 4. Government 4 might threaten not to accept any proposal that is not at its ideal point. If this statement were credible, a policy at 4 would be the outcome of the codecision procedure. A more reasonable assumption, however, is that Government 3 has the effective bargaining power, and it will be able to impose its ideal point.

Thus, there is a very important difference in expected policy outputs between consultation and cooperation, on the one hand, and codecision, on the other. If the Parliament is more integrationist than any member of the Council, and if the *status quo ante* was achieved under the Luxembourg compromise, the pace of European integration will be slower under codecision than under the older procedures. This is directly a function of the transfer of agenda-setting power from the Commission and the Parliament to the Council.

In the consultation/cooperation endgame, the Commission or the Parliament make proposals to the Council that can only be amended unanimously. Government 3 is pivotal in the Council, but it will accept proposals to its right so long as they are preferable to the best amendment it could make that would be acceptable to all Council members (in Figure 4, there are no such amendments, since the *status quo* is at Government 1's ideal point). The agenda setters understand this and thus propose a policy to the right of Government 3's ideal point. The situation is reversed under codecision, because agenda-setting power rests with the Council. Government 3 effectively controls the agenda and can determine the pace of European integration.

Thus, the fact that the Parliament gained an absolute veto over Council proposals is not as important as many analysts have assumed.³¹ This is because its veto power was attained at the expense of its ability to influence the Council's agenda. Under the reasonable preference configurations analyzed here, the Parliament is a less effective policy maker under codecision than under cooperation. Unfortunately, however, it is not yet possible to test this argument empirically.

Before closing our discussion of codecision, we should note that our analysis has assumed that the *status quo ante* was generated under the Luxembourg compromise. This is entirely reasonable where new issue areas were brought under EU jurisdiction, but it is less appropriate for the major area under codecision—the internal market—because the volume of legislation passed in this area under the cooperation procedure was great.³² For the internal market, it might be better to assume that the *status quo* is one in which much of the enabling legislation is already in place.

Under this scenario, the major analytic issue is whether the Council can use its agenda-setting power to roll back internal market legislation. So long as the Parliament's preferences are more integrationist than those of the Council, the answer is "no." This situation is depicted in Figure 6. We assume the extreme case in which the *status quo* is at the Parliament's ideal point. There is no proposal that a qualified majority in the Council could make that would not be vetoed by the Parliament. Here, Parliament's veto power under codecision is potentially very important—it would allow Parliament to block efforts to dismantle existing legislation.

The second assumption we have used that might be relaxed is that the Parliament is more integrationist than all the governments in the Council. This assumption is based on the freedom members of the European Parliament to act independently of their electoral constituencies. This has been the case up until now because of the general public's disinterest in European Parliament elections.³³ But this could change in the



FIG. 6. Policy stability under codecision.

future as citizens come to understand the power of the Parliament. If the current division between political elites and the mass public continues—with the latter being more skeptical about European integration than most politicians—the preferences of the median voter in the European Parliament might come to be less integrationist than those of governments in the Council.

This scenario is depicted in Figure 7. We assume that the *status quo* is very integrationist, but that the Parliament prefers less integration than does Government 1. In this extreme case, it is possible that some European legislation (likely concerning the internal market) could be rolled back to the preferences of the pivotal government in the Council under qualified majority voting (Government 5 in this case).

Summary

This section has demonstrated that the only way to understand decision making in the contemporary EU is through detailed analysis of its legislative procedures. The Council-centric perspective of most PI studies was justified during the Luxembourg compromise period and still is useful for analyzing some issues today. But here, studies should not concentrate on voting weights. Rather, they should consider the ability of countries opposed to integration either to block reforms or to extract high prices for their acquiescence. In all the remaining areas of EU decision making, one cannot analyze qualified majority voting in the Council without knowing how the agenda on which the Council deliberates is set.

IV. Conclusion

The EU has proved fertile ground for academic analysis since the effective introduction of qualified majority voting to the Council of Ministers in the mid-1980s. There are two basic approaches used to study this topic. In this paper we have presented a critique of one of these approaches—that based on the calculation of PIs. The cooperative game theoretic foundation on which PIs are based generates systematic biases against focusing attention on the issues that drive decision making in the EU. Instead, we propose a noncooperative framework that focuses on the strategic interactions among the Council, the Commission, and the European Parliament based on the institutional details of the procedures that govern legislative processes in the contemporary EU. These procedures have a considerable impact on policy outcomes—as is evidenced by the fact that the different institutional rules (consultation, cooperation, etc.) under which different policy decisions should be made.

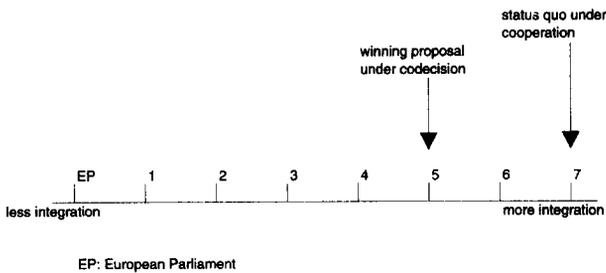


FIG. 7. The electoral accountability of Parliament and codecision.

Our approach generates considerable leverage over important policy outcomes in Europe. For example, we have shown why spatially isolated countries such as the United Kingdom have little influence over decision making under qualified majority voting, why the agenda-setting power of the Commission and the Parliament under the cooperation and consultation procedures often results in policy outcomes that seem extremely interventionist, and why it would be wrong to conclude that the codecision procedure of the Maastricht treaty clearly increased the policy influence of the Parliament. Our approach suggests that the way forward for studies of the EU is to analyze in detail the environment in which policy issues are decided—in terms both of the preferences of different actors and the institutional constraints they face—rather than simply to calculate mathematical probabilities that are devoid of such content. It is true that our approach is less parsimonious than the PI perspective. But with respect to policy making in the EU, the price of parsimony is very high. Given the importance of EU legislation, it is one we should not be prepared to pay.

Notes

1. For a recent study in this tradition, see Stephen Krasner, 1991, Global communications and national power: Life on the Pareto frontier. *World Politics*, 43(April):336–366.
2. See, for example, Stephen J. Brams and Paul J. Affuso, 1985, New paradoxes of voting power in the EC Council of Ministers, *Electoral Studies*, 4(August):135–139; Madeleine O. Hosli, 1993, The admission of the European Free Trade Association states to the European Community, *International Organization*, 47(4)(Autumn):629–643; R.J. Johnston, 1995, The conflict over qualified majority voting in the European Council of Ministers: An analysis of the UK negotiating stance using power indices, *British Journal of Political Science*, (October); Jan-Erik Lane and Reinert Møeland, 1995, Voting power under the EU constitution, *Journal of Theoretical Politics*, 7(2):223–230; Mika Widgrén, 1994, Voting power in the EC decision making and the consequences of two different enlargements, *European Economic Review*, 38:1153–1170; Mika Widgrén, 1995, Probabilistic voting power in the EU Council: The case of trade policy and social regulation, *Scandinavian Journal of Economics*, 97(2): 345–356; and Alan Kirman and Mika Widgrén, 1995, European economic decision-making policy: Progress or paralysis?, *Economic Policy*, 21:423–460.
3. See, for example, Robert Cooter and Josef Drexler, 1994, The logic of power in the emerging European constitution, *International Review of Law and Economics*, 14:307–326; Geoffrey Garrett, 1992, International cooperation and institutional choice, *International Organization*, 46(Spring):533–560; Geoffrey Garrett, 1995, From the Luxembourg compromise to codecision: Decision making in the European Union, *Electoral Studies*, 14(3)(September):289–308; Geoffrey Garrett and George Tsebelis, 1996, An institutional critique of intergovernmentalism, *International Organization*, 50(Spring):269–300; Lisa Martin, 1993, International and domestic institutions in the EMU process, *Economics and Politics*, 5(July):125–144; Gerald Schneider, 1995, The limits of self-reform: Institution-building in the European Union, *European Journal of International Relations*, 1(1):59–86; Bernard Stuenkel, 1994, Decision-making under different institutional arrangements—legislation by the European community, *Journal of Institutional and Theoretical Economics*, 150:642–669; George Tsebelis, 1994, The power of the European Parliament as a conditional agenda setter, *American Political Science Review*, 88(March):128–142; George Tsebelis, 1995, Conditional agenda setting and decision making inside the European Parliament, *Journal of Legislative Studies*, 1(Spring):65–93.
4. Kirman and Widgrén, European economic decision-making policy and Widgrén, “Probabilistic voting power in the EU council.”
5. The current qualified majority required is 62 out of 87 votes. Governments are allocated votes in the Council in loose approximation to their countries’ populations, although the voting weights are biased in favor of smaller countries. Today, these weights are: France, Germany, Italy, and the

- United Kingdom, 10; Spain, 8; Belgium, Greece, the Netherlands, and Portugal, 5; Sweden and Austria, 4; Denmark, Finland, and Ireland, 3; Luxembourg, 2.
6. This is the Banzhaf power index. Our critique applies equally to the other common method of calculation, the Shapley-Shubik index. John Banzhaf, III, 1965, Weighted voting doesn't work: A mathematical analysis, *Rutgers Law Review*, 19:317–343; Lloyd S. Shapley and Martin Shubik, 1954, A method of evaluating the distribution of power in a committee system, *American Political Science Review*, 48:787–792.
 7. For a multidimensional model criticizing conventional power indices in these terms, see Geoffrey Garrett and George Tsebelis, 1996, An Institutional Critique of Intergovernmentalism, *International Organization*.
 8. See, for example, William Riker, 1962, *The Theory of Political Coalitions*, New Haven, CT: Yale University Press; Robert Axelrod, 1970, *Conflict of Interest*, Chicago: Markham.
 9. The three-category example is used by Widgrén in “Probabilistic Voting Power in the EU Council,” pp. 349–352.
 10. Kirman and Widgrén, “European Economic Decision-Making Policy,” pp. 443–445.
 11. *op. cit.*, pp. 445–447.
 12. We will not analyze the impact of preference heterogeneity to isolate the effects of introducing the Commission into the PI framework.
 13. We discuss below why this is a representative example of actual decision making in the EU.
 14. The coalition 1234567C is theoretically possible, but the Commission is redundant to it and hence cannot be understood to have any power over it.
 15. This section relies heavily on Garrett and Tsebelis, “An Institutional Critique of Intergovernmentalism.”
 16. The Commission plays no formal role in the new areas of EU jurisdictions created at Maastricht (see below).
 17. For extension to multiple dimensions, see Tsebelis, “The Power of the European Parliament”; Tsebelis, “Conditional Agenda Setting and Decision Making *Inside* the European Parliament.”
 18. The prointegration agenda of Commissioners may seem puzzling given that national governments select their own Commissioners and can replace them at the end of their terms. However, there are informal constraints that militate against governments' choosing their partisans as Commissioners. There is also considerable evidence that Commissioners take on increasingly prointegration positions after they arrive in Brussels.
 19. For a detailed analysis of decision making within the Parliament, see Tsebelis, “Conditional Agenda Setting and Decision Making *Inside* the European Parliament.”
 20. While one could readily extend the complete information assumption to the whole procedure—as opposed to the last steps—we avoid the temptation because it leads to conclusions that are difficult to support empirically. Perhaps most importantly, under complete information the decision-making game would never reach the final stages. The initial proposal would be accepted by all actors, and the game would end. In practice, however, most deliberations reach the final stage of a given procedure. Nonetheless, the complete information assumption is reasonable at the end of the game because by this time the relevant actors have exchanged considerable information—both by their behavior under the decision-making procedure and outside it.
 21. Indirect evidence supports this assumption. Most importantly, it is extremely rare for any policy initiative to end in a stalemate with no decision reached. It is thus reasonable to analyze policy making as a one-shot game in which the final player in a game will accept proposals that it prefers to the *status quo ante*. It is theoretically possible, of course, that for issues on which legislative efforts fail to be raised again in the future, introducing the possibility of indefinite iteration of these games complicates matters. One would have to analyze noncooperative bargaining games between the agenda setter and the actor that must accept or reject the agenda setter's proposal. This latter actor must determine whether to reject a proposal it prefers to the *status quo ante* in the expectation of securing a more favorable outcome in a subsequent play of the game. While there are unique

- equilibria to such games in theory, it is very difficult in practice to put empirical weights on the relevant factors.
22. For detailed descriptions of the policy areas subject to the different decision making procedures, see Francis Jacobs, Richard Corbett, and Michael Shackleton, *The European Parliament*, 2nd ed., Essex: Longman, pp. 203–205.
 23. Tsebelis, “The Power of the European Parliament,” p. 136. This portion of the figure is slightly different than that in Garrett, “From the Luxembourg Compromise to Codecision” and Garrett and Tsebelis, “An Institutional Critique of Intergovernmentalism.” We thank Heiner Schulz for pointing out that the Council’s choices are the same whether or not the Commission accepts or rejects the Parliament’s amendments.
 24. The Parliament can also reject proposals that are accepted by a qualified majority in the Council’s first reading of a bill. This rejection can only be overridden by a unanimous Council. In practice, however, this power is not very significant if the Parliament is more prointegration than any member of the Council. A proposal that is preferred to the *status quo* by the Council will invariably also be preferred by the Parliament.
 25. The relevant pieces of legislation are the “Health and Safety at Work” directive (89/391/EEC), the “Machinery” directive (89/392/EEC), and the “Display Screen Equipment” directive (90/270/EEC).
 26. Volker Eichener, 1993, “Social dumping or innovative regulation? Process and outcomes of European decision-making in the sector of health and safety at work harmonization,” Florence, European University Institute Working Paper #92/28, p. 6, emphasis in the original.
 27. Giandomenico Majone, 1993, “The European Community between social policy and social regulation,” *Journal of Common Market Studies*, 31:153–170.
 28. For a detailed discussion of this type of 2-level strategic interaction, see George Tsebelis, 1990, *Nested Games: Rational Choice in Comparative Politics*, Berkeley: University of California Press.
 29. Jacobs, Corbett, and Shackleton, *The European Parliament*, pp. 191–194; William Nicoll and Trevor C. Salmon, 1994, *Understanding the New European Community*, Hemel Hempstead: Harvester-Wheatsheaf, p. 83; Emile Noël, 1995, Towards a new institutional balance of power, in Etienne Davignon, Niels Ersbøll, Karl Lamers, David Martin, Emile Noël, and Frank Vibert (Eds.), *What Future for the European Commission?* The Phillip Morris Institute (PMI), pp. 62–63; Neil Nugent, 1994, *The Government and Politics of the European Union*, Durham, NC: Duke University Press, p. 326.
 30. By the end of 1992, over 600 measures had been passed in this manner—double the number envisaged in the Commission’s 1985 “White Paper on the Completion of the Internal Market.” Jacobs, *The European Parliament*, p. 193.
 31. In the 1994 elections, for example, turnout was very low and the intense campaigns (most notably in Britain) were dominated by domestic considerations, rather than by EU policy issues.