
2 The rules of decisionmaking in EU institutions

*George Tsebelis**

For much of the first decade of the twenty-first century (2001–09) the EU has tried to reform its institutions. These efforts began in the mid-1980s and continued through the early 2000s, resulting in a new agreement every three to four years with little ultimate success (Tsebelis and Yatağan 2002). Further, the initial institutions adopted in the Single European Act (SEA 1986) were essentially replicating the decisionmaking rules in the Council adopted in the Rome Treaty (1957) and adding an important role for the European Parliament (Tsebelis 1994; Tsebelis and Kreppel 1999). So, the *de jure* decisionmaking rules in the Council have remained essentially stable (although not applied until the SEA) and changed for the first time under the institutional reform process initiated after the Nice Treaty (2000). Table 2.1 demonstrates this stability of the required qualified majority in the Council (over 70 percent from 1958 until the Convention).

The reform process that led to the first real change in European institutions started with the Laeken declaration (2001) and took almost ten years to be completed. So, in the EU case, stasis was followed by painstakingly slow change. The reason for the slow rate of change was that while the target was set and known (set by the significant institutional change produced by the European Convention), it was not acceptable by all the political actors whose assent was required to instigate change. These actors engaged in a strategic exercise during which they each tried to achieve an outcome slightly different from the shared goal, but still quite close to it. In other words, they were engaging in a “tatonnement” process, to reach the closest possible solution to the existing default solution. So, what occurred was a trial and error process that led to an outcome quite close to their

Table 2.1 Council qualified majority requirements over time

Year	Total number of MS	Total votes	QM: votes	QM: percentage
1958	6	17	12	70.59
1973	9	58	42	72.41
1981	10	63	45	71.43
1986	12	76	54	71.05
1995	15	87	62	71.26
2000	25	232	321	72.27
Convention				60
Lisbon				65

Source: Opinion of the Commission entitled “Adapting the institutions to make a success of enlargement” delivered on 26 January 2000, COM (2000) 34.

* I would like to thank Cassandra Grafström for very efficient help.

shared goal. These activities occurred many times, but I will focus on two main clusters of them: one in the Constitutional Convention, and one in the preparation of the Lisbon Treaty.

In this chapter I will argue that this tatonnement process had two components: first, elimination of obstacles that would derail the whole enterprise, and second, fine-tuning to reach the outcome as close as possible to the goal. Actually, it is remarkable that the goal during the fine-tuning phase consistently remained the agreement reached in the previous round, so that the final outcome was as close as possible to the initial draft despite the fact that very few of the principal actors had remained the same. Actually, only Denmark (A.F. Rasmussen, three terms), Belgium (Verhofstadt, three terms) and Luxembourg (Juncker, three terms) had the same prime minister throughout this eight-year period. All other countries changed several chief executives. And although for some of them this change may not have had political significance (the UK moved from Blair to Brown within the Labour Party, France moved from Chirac to Sarkozy), for most the changes in leadership signified significant changes in policies (Germany from Schröder to Merkel, Greece from Simitis to Karamanlis, Spain from Aznar to Zapatero, Italy from Berlusconi to Prodi, etc.).

It was apparent that institutional reform was necessary as soon as the Nice Treaty was signed. Tony Blair provided a pessimistic appraisal of the Treaty: “As far as Europe is concerned we cannot do business like this in the future” (BBC News, 11 December 2000). Yet, the process of reform was to fail several times (e.g. “the erratic [Italian] Presidency of Silvio Berlusconi was one reason why the Brussels summit failed” (*The Economist*, 18 December 2003); referendums in France and the Netherlands) and declared dead several times by the press (e.g. “the Constitution is dead” (*The Economist*, 2 June 2005) or “Irish Voters sign Death Warrant for Lisbon Treaty” (*Times Online*, 14 June 2008)) or “in equilibrium” by academics, which is the same (“the failure of Constitutional reform is, paradoxically, evidence of the success and stability of the existing European constitutional settlement” (Moravcsik 2006: 219)). And yet, ultimately, major reforms to the workings of the European Union were achieved.

The chapter is organized into three parts. The first explains some of the differences between the old and the new institutions and their significance; the second describes some of the tatonnement that occurred in the Constitutional Convention; the third describes the tatonnement by national governments surrounding the Lisbon Treaty.

1 THE EU INSTITUTIONS OLD AND NEW

This section compares the policy and political outcomes that followed from the institutional structures generated by the European Convention, the Lisbon Treaty, and the Nice Treaty. The institutions produced under these different arrangements empowered different actors in the creation of policies within the Union. The comparison is based on the theory of veto players (Tsebelis 2002) and is aimed at demonstrating the potential differences in policy outcomes for the EU had future policies been made in each of these institutional settings. In other words, what is the most productive institutional design for the EU? I answer this by examining the expected effects of different institutional arrangements.

I analyze the outcomes of the decisionmaking processes generated by these various procedures and discuss the policy, political, and structural implications of the different arrangements. The argument is that the procedures proposed in the Convention text resolved a series of problems facing the European Union, and the rejection of these proposals could have had unfortunate consequences if the Lisbon Treaty had not been ratified.

The supermajority required by the Nice rules made the passage of new legislation much more difficult than under either the Convention's proposal or the slightly amended Treaty of Lisbon. The second-order consequences were that the Council's inability to act would allow the bureaucracy and judiciary to act with a freer hand than they would have been able to under the alternative institutional arrangements. As I will discuss below, the inability of the member states to reach agreement meant that those actors charged with implementing (bureaucrats) and interpreting (judges) the law would have had a larger range of positions that they could take that would be difficult for the Council to overturn. The movement of the locus of policy determination away from (indirectly) elected EU politicians to (wholly unelected) judges and bureaucrats is problematic for those who argue that the European Union suffers from a democratic deficit.

More specifically, the argument is that the European Union is characterized by a plethora of veto players, which makes decisionmaking very difficult. The Nice arrangements – which hinder decisionmaking in the Council because of their stringent qualified majority requirements – had increased the powers of the judiciary and the bureaucracies (de Witte 2001; Tsebelis and Yatağanas 2002; Yatağanas 2001a). Valéry Giscard d'Estaing, President of the Convention, was able to reverse all of these features with one stroke of his pen: supported by a Convention unique for its synthesis (Closa 2004; Magnette 2001), he eliminated the triple qualified majority decisionmaking rule in the Council. As a result, he made political decisions easier to adopt, reduced the relative power of any individual member state, increased the role of the European Parliament, and resultantly decreased the importance of the bureaucracy and the judiciary. In the Lisbon Treaty a compromise (located close to the Convention proposal, as Table 2.1 demonstrates) was adopted. This compromise results in a clearer delineation of who is responsible for decisions and leads to more of the Union's important decisions being made by politically accountable individuals. Referendum results notwithstanding, this constitutional document constituted a focal point for projects of EU integration. Despite press analyses which focused upon the EU's failure to integrate, national politicians realized that what was rejected in 2005 was worth resurrecting and adopting in the form of the Treaty of Lisbon – no other alternative was workable within the current configuration of the EU.

1.1 Judges and Bureaucrats

Before examining the specific institutional changes proposed by the Convention and the Brussels IGC, it is relevant to discuss broader problems faced by the European Union and their relationships to European institutions more generally. In particular, this subsection explores a hotly discussed set of problems that is thought to plague the European Union: the power of the EU's bureaucracy and judiciary. The strength of these groups' independent decisionmaking powers is related to the sets of institutions that shape decisionmaking in the EU and was amplified by the use of the Nice rules.

Regardless of their intentions (public-spirited or otherwise), increasing the latitude with which judges and bureaucrats act is problematic to those interested in maintaining or enhancing democratic accountability within the European Union. The bureaucracy and the judiciary are involved with legislatures in a sequential game. They interpret the law and then the legislature can decide to overrule their statutory interpretation or not (Tsebelis 2002). As more and more legislators' agreement becomes necessary to overrule the statutory interpretation of the bureaucracy or the court, these actors' interpretations become increasingly likely to determine how policy is implemented. While they may choose to implement policies in a fashion quite similar to that envisioned by the legislature, this is not guaranteed. Indeed, as I show below, as the number and ideological diversity of actors who need to agree to change the interpretation of the bureaucracy/judiciary increases, these non-elected actors have greater leeway in choosing how to interpret and implement public policy.

If the courts are rendering *constitutional* interpretations, then the high thresholds that need to be breached to change the constitution make it nearly impossible for the legislature to overrule the courts' interpretations. In a recent analysis Santoni and Zucchini found that the Italian Constitutional Court became more proactive the greater the ideological distance between the government parties and the Communists in the period 1956–92 (because the government with the cooperation of the Communists formed a sufficiently large majority during this period to modify the Italian Constitution) (Santoni and Zucchini 2004). No matter what the interests and/or preferences of the bureaucracy and the courts, the real question is should the political decisions of the Union be made by the citizens' elected representatives or should these decisions be left to unelected agents?

The question may seem provocative and the answer obvious: elected representatives. I do not share this belief without condition. There are decisions that are better left to judges than to elected representatives: for example, issues of human rights are better left to courts. Similarly, there are decisions that are better left to independent agencies (like an ombudsman or perhaps an independent central bank) than to governments (Yataganas 2001b). However, these arguments cannot be made for the majority of political decisions, and reducing the capacity of a political body to generally make decisions increases the likelihood that these decisions will be made by unelected (and non-politically-accountable) agents. This is an important point: reducing the capacities of elected representatives of the EU does not necessarily increase the power of national governments. In issues of EU jurisdiction (decided by the treaties) the power to define and implement policy reverts to unelected representatives when elected representatives are deadlocked, not to national politicians who have given up those rights to the European Union. I doubt that this is the goal of national governments or citizens when they vote "no" in referendums.

While the problems identified in this subsection already exist within the European Union, how are they related to the form of the institutions that make up the EU and the proposed changes in the European Constitution? As I have tried to lay out above, the increased power of the bureaucracy and judiciary is directly related to the number of actors whose consent is needed to overrule their interpretations of the law. How do the institutional rules that the European Union operates under affect these problems and what framework can be used to think about all of these issues? This is explored in the next subsection through the lens of veto players.

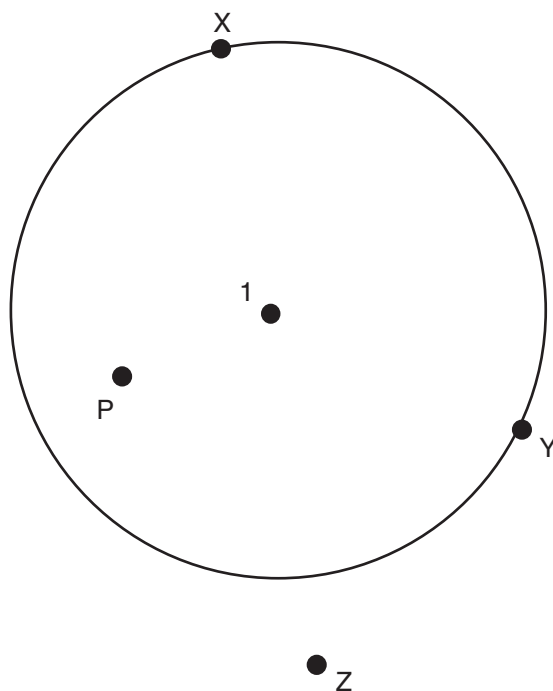


Figure 2.1 Circular indifference curve of a veto player

1.2 Veto Players and their Policy and Institutional Implications

Veto players are individual or collective decisionmakers whose agreement is necessary to change the legislative status quo. We can represent such players in a two-dimensional policy space by their ideal points. Each player will prefer points closer to him over points further away, or will have circular indifference curves. Indeed, in Figure 2.1 veto player 1 among the points P, X, Y, and Z prefers P rather than the rest (located inside the circle going through X), then X or Y (indifferent between these two), and has Z as his last preference.

From the definition of veto player follows that the higher the number of veto players, the more difficult it is to change the status quo. Tsebelis calls the “difficulty of changing the status quo” *policy stability*. He demonstrates that the higher the number of veto players, and the larger the ideological distances among them, the higher is policy stability.

Here I will use some ideas from Tsebelis (2002) that help us understand European Union institutions. First, I present the two concepts that Tsebelis uses in order to operationalize policy stability (the core and the winset of the status quo). Second, I explain the effect of increasing the required qualified majorities for a decision. Third, I show that increasing the qualified majority requirement in one chamber of a bicameral legislature shifts the policy outcome towards this chamber: in the EU case, increasing the qualified majority requirements in the Council increases its power and adds to the “democratic deficit.” Finally, I discuss the structural implications of increasing the number of

(legislative) veto players: in particular, I will describe how more legislative veto players increase the importance and independence of the judiciary and the bureaucracy.

1.2.1 The core and the winset of the status quo of veto players as measures of policy stability

In the discussion that follows I will introduce two concepts that will help us understand EU institutions. The first is the *winset of the status quo* ($W(SQ)$), the set of outcomes that can defeat the status quo. Think of the status quo as current policy. The winset of the status quo is the set of policies that can replace the existing one. The second concept is the *core*, the set of points with empty winset—the points that cannot be defeated by any other point if we apply the decisionmaking rule. I usually refer to the core along with the decision-making rule that produces it. For example, the “unanimity core” refers to the set of points that cannot be defeated if the decision is unanimous. An alternative name for “unanimity core” that is frequently used in law and economics is “Pareto set.”

In Figure 2.2, I present a system with three veto players A, B and C and two different positions of the status quo: SQ1 and SQ2. As noted, all decisions must be made by unanimity, since A, B, and C are veto players. In order to identify the winset of SQ1 ($W(SQ1)$) one draws the indifference curves of A, B, and C that pass through SQ1, and identifies their intersection. I have hatched this intersection in Figure 2.2. A similar operation indicates that $W(SQ2) = \emptyset$, or that SQ2 belongs to the unanimity core of the three veto players system. It is easy to verify that $W(SQ2) = \emptyset$ as long as SQ2 is located inside the triangle ABC.¹ Thus the unanimity core is the entire triangle ABC as shaded in Figure 2.2.

I use both the smallness of the winset of SQ and the size of the unanimity core as indicators of policy stability. Here I will study two different cases, one focusing on the winset of the status quo, and the other on the core, so that the reader becomes familiar with the subsequent reasoning.

(i) *Winset of status quo is non-empty* Figure 2.3 replicates Figure 2.2 and adds one more veto player: D. It is easy to see by comparison of the two figures that the winset of SQ1 shrinks with the addition of D as a veto player. Indeed, D vetoes some of the points that were acceptable by veto players A, B, and C. This is the generic case. Under special spatial conditions the addition of a veto player may not affect the outcome. For economy of space I do not present another figure here, but the reader can imagine the following: if D is located on the BSQ line between B and SQ so that the circle around D is included inside the circle around B, the addition of D as a veto player would not influence the size of the winset of SQ1. I could continue the process of adding veto players, and watch the winset of the status quo shrinking or remaining the same (“not expanding”) with every new veto player. It is possible that as the process of adding veto players unfolds, at some point the winset of the status quo becomes empty such that there is no longer a point that can defeat the status quo. This would have been the case if D were located in an area so that SQ1 were surrounded by veto players. We will deal with this case in the next few

¹ If, however, SQ2 is located outside the triangle ABC, then it can be defeated by its projection on the closest side, so its winset is not empty.

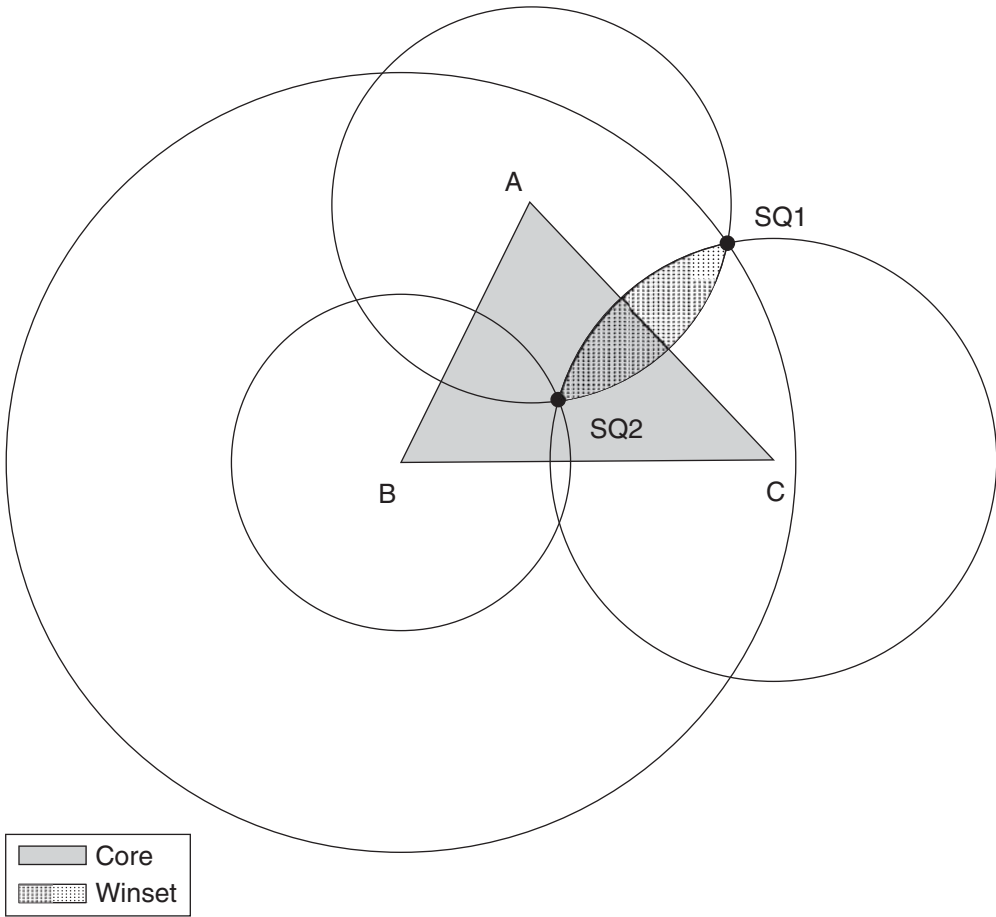


Figure 2.2 Winset and core of a system with three veto players

paragraphs. Here let me summarize the result of the analysis so far. *If the winset of the status quo exists, its size decreases or remains the same with the addition of new veto players.*

(ii) *Winset of status quo is empty* Let us now focus on SQ2 in Figure 2.3. It presents the case where the winset of the status quo with three veto players is empty. Given that $W(SQ2) = \emptyset$, the size of $W(SQ)$ is not going to change no matter how many veto players one adds. However, the addition of D as one more veto player has another interesting result: it expands the unanimity core. The reader can verify that the unanimity core now is the whole area ABCD. Again, it is not necessary that an additional veto player expands the unanimity core. It is possible that it leaves the size of the unanimity core the same, as would have been the case if D were located inside the triangle ABC. We will deal with this case in the next section. For the time being, the conclusion of this paragraph is as follows. *The size of the unanimity core increases or remains the same with the addition of new veto players.*

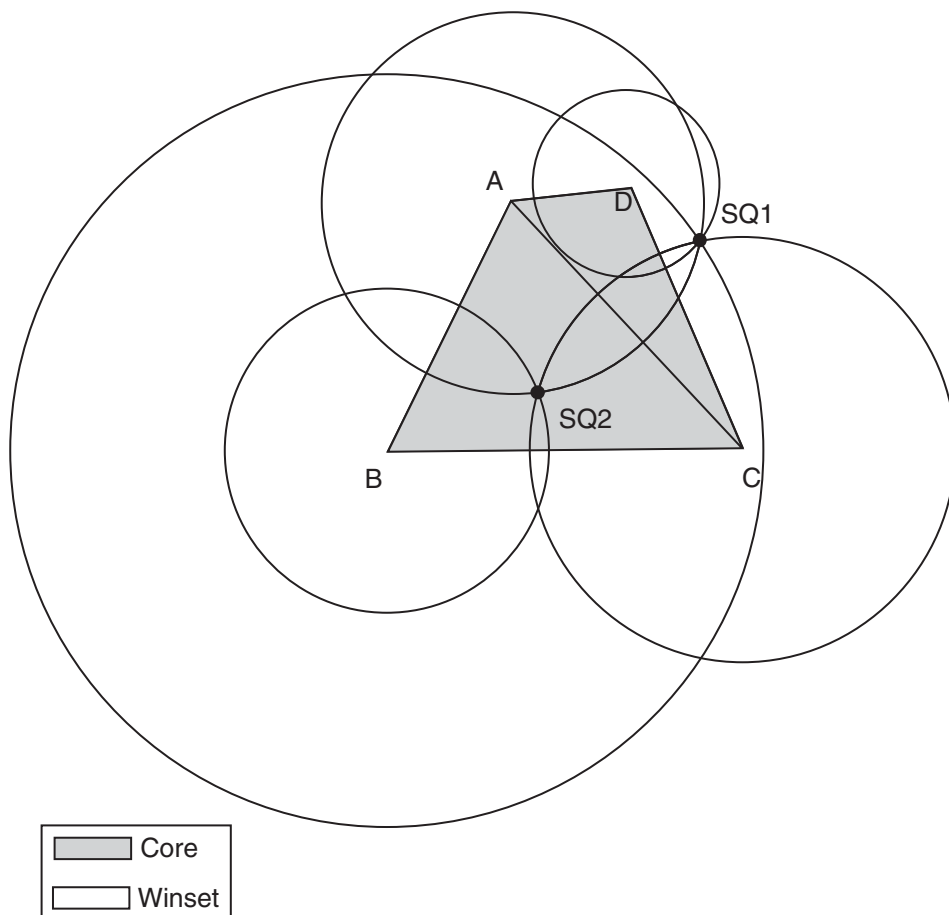


Figure 2.3 *Winset and core of a system with four veto players*

From the previous analysis follows that the larger the size of the core, and the smaller the size of winset of the status quo, the higher policy stability is. The argument is best represented in Figure 2.4.

1.2.2 Changing the qualified majority requirements

Let us now consider a “collective veto player” that decides by qualified majority rule in a manner much like the Council of Ministers of the EU. In Figure 2.5, I present a seven-member Council that decides by a qualified majority of 5/7. This is approximately the same majority required by the weighted voting of the Council (around 70 percent) prior to the 2004 expansion, so I will be able to use the same figure to discuss the European Union in the next part of this section.

We can divide this collective veto player several times in the following way: we can select any five points (say 1–5) and then consider the pentagon composed of these five points (the unanimity core of these five players). Any point included in this pentagon

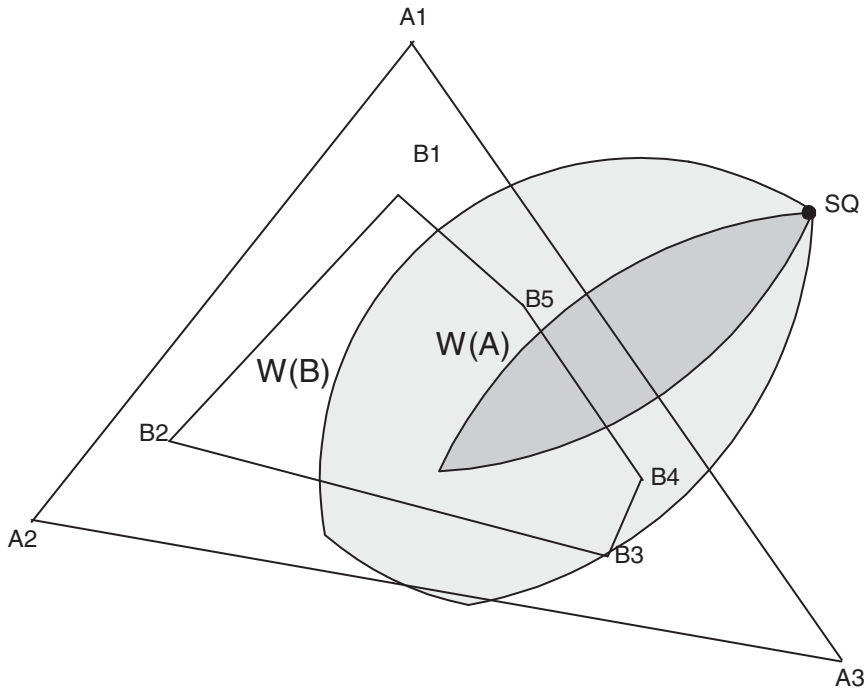


Figure 2.4 Veto players A1–A3 produce more policy stability than B1–B5 (no matter where the status quo is)

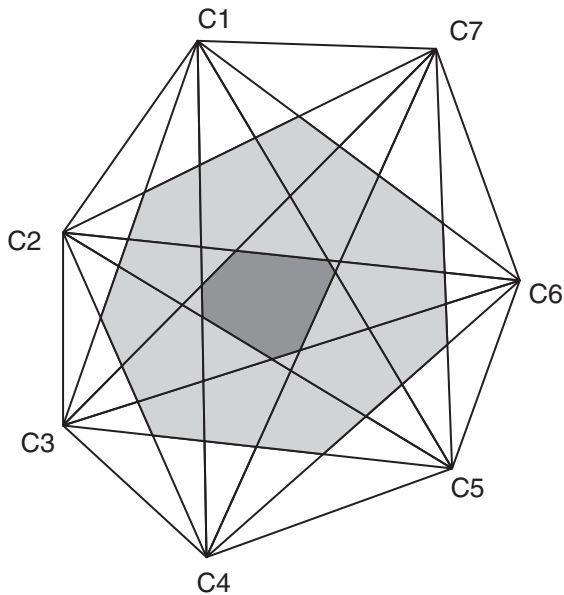


Figure 2.5 Core of Council with 5/7 and 6/7 majorities

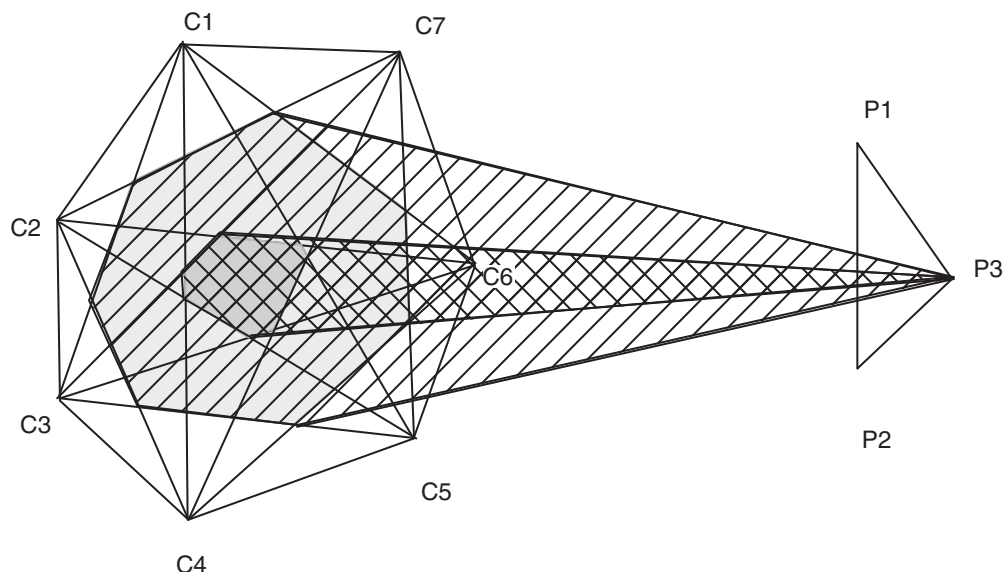


Figure 2.6 Core EU with Council (5/7 and 6/7) and EP majority

cannot be defeated by a unanimous agreement of the five selected players. If now we select all possible such combinations of five players the area composed of the intersection of their unanimity cores cannot be defeated by any 5/7 qualified majority. This intersection is the heavily shaded area in Figure 2.5. This area is the 5/7 core of the collective veto player. This exercise can be repeated with 6 out of the seven members to find the 6/7 core of the Council. The 6/7 core is represented by the addition of the lightly shaded area to the 5/7 core in Figure 2.5. One can see that the core expands when the required majority for a decision increases. This is the basic property that I will use in this chapter. I argue that the Treaty of Nice (particularly combined with the expansion of 2004) produced institutions with an exceptionally large core, making political decisionmaking practically impossible. The agreements proposed at the European Convention in 2003, and those subsequently adopted in the Lisbon Treaty, rectified the problem.

1.2.3 Bicameralism and changing qualified majorities

What happens if decisions are made by the congruent position of two distinct chambers, as is the case in the European Union? In particular, what are the effects of changing the threshold of qualified majority decisionmaking in one chamber while keeping the decisionmaking rules in the other chamber unchanged? Two different effects of such a change have been identified (Tsebelis 2002). First, the overall policy stability of the system increases. Second, power shifts in favor of the chamber whose threshold *increases*. Let us examine each one of these effects separately.

What happens to the overall policy stability of the system? Figure 2.6 replicates the Council we presented in Figure 2.5, and adds a three-member Parliament. The core of the system includes the core of the Council. The reader can verify that as the core of the Council increases from a 5/7 to a 6/7 qualified majority threshold, the overall core,

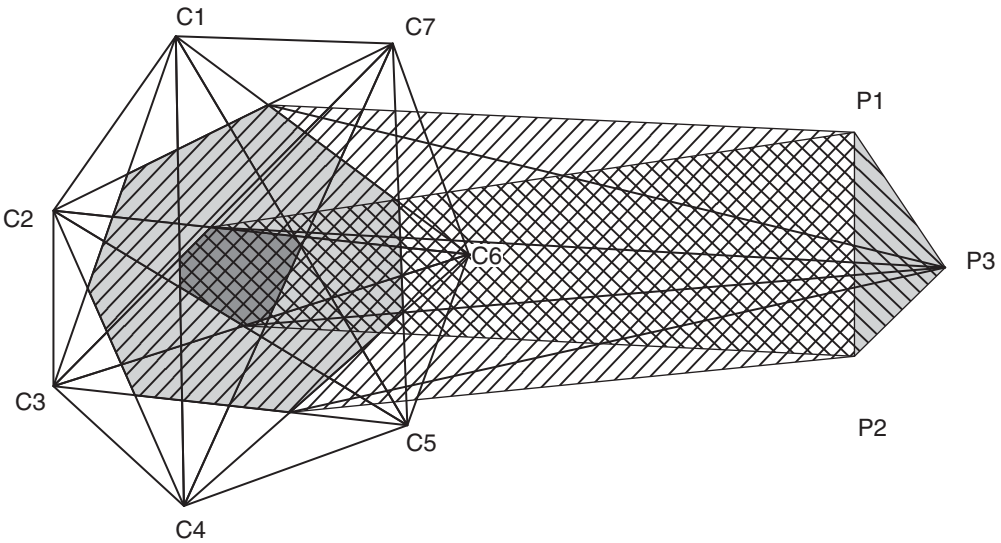


Figure 2.7 Core EU with Council (5/7 and 6/7) and EP unanimity

as indicated by the double-hatched area to include the single hatched area, increases as well. Increasing the required majority in the Council from a 5/7 to a 6/7 qualified majority has two consequences. The first is distributive: it makes agreement in the Council more important, and restricts the outcomes of a compromise to those closer to the preferences of the Council. Second, it increases the overall policy stability of the system, and makes changes to the status quo more difficult.

Figure 2.7 makes the same point about the European Parliament. If a constitutional convention decided to increase the required majority threshold of the Parliament, the result would be an increase in the size of the Union's core. Figure 2.7 presents a three-member Parliament that decides by unanimity (all three of its members) instead of majority (two of them). The reader can verify that the core increases significantly.

More interesting, and perhaps counterintuitive, are the political (or redistributive) consequences of changing the qualified majority threshold in one of the chambers. As Tsebelis and Money (1997) demonstrate, this shifts the policy outcomes *towards* the chamber where decisionmaking becomes more difficult. Figure 2.8 shows the winset of the status quo of a bicameral legislature composed of two three-member chambers. In the first case congruent majorities in both chambers make decisions; in the second, unanimity in the Council is required (along with a majority in the Parliament). The lightly shaded area indicates the winset of the status quo by congruent majorities, while the heavily shaded area indicates the winset of the status quo when unanimity is required in the Council. The reader can verify the outcome shifts in favor of the Council in the second case. The reason is that an additional member (whose preferences were ignored in the case of congruent majorities) is now taken into account. This member has the most "stringent" preferences because his location was so close to the status quo that the other members preferred to ignore him when negotiating a new policy under simple majority rules. Now that his agreement is required he restricts the winset of the status quo,

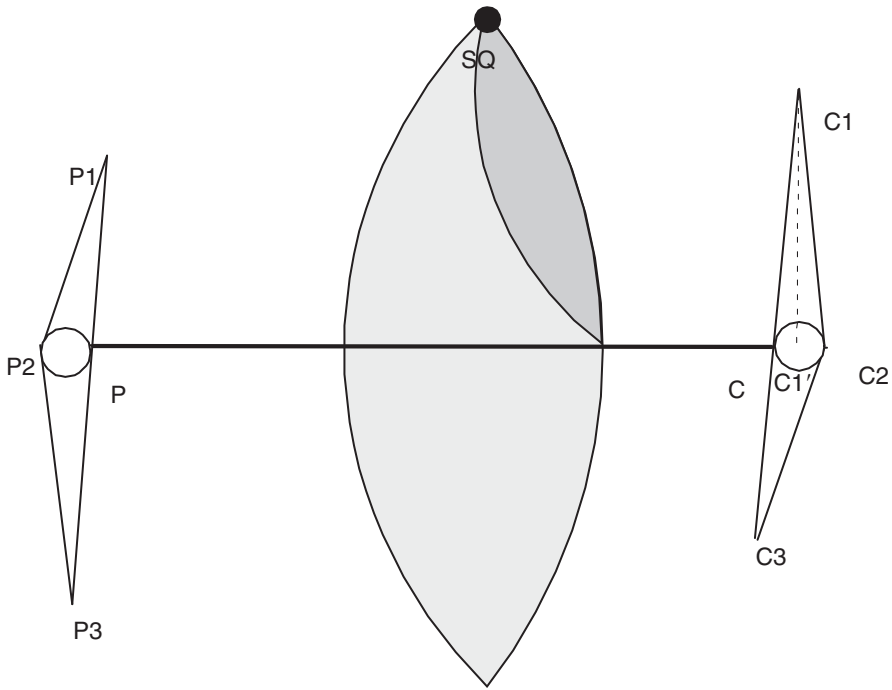
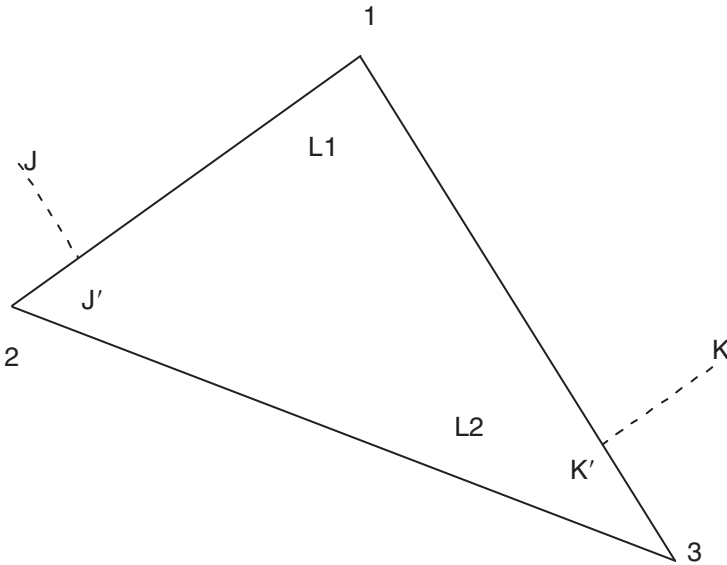


Figure 2.8 *Winset by concurrent majorities, and by unanimity in the Council*

moving it toward his preferred outcome and towards the location of the Council. Thus, we can see that the reversion to the Nice rules, by increasing the number of veto players in the Council, reduces the influence of the European Parliament in determining policy outcomes and increases the relative weight of national executives as represented in the Council of Ministers. This increases (or generates, depending on the initial point of view) the Union’s democratic deficit.

Returning to the question of bureaucratic and judiciary strength, it can be shown that the same institutions that serve to weaken the European Parliament also empower these unelected institutions in the EU. Let us assume that there are three legislative veto players. Figure 2.9 demonstrates such a case, where the triangle 1–2–3 is defined as their core, the set of points that they cannot agree to change. Consequently, if the first mover (the bureaucracy or judiciary) selects one of the points in the core there will be no legislative overrule. Figure 2.9 presents three different possibilities. In the first two cases, the first movers’ ideal points J and K are outside of the legislative core and they select the closest core point to them (J’ and K’ respectively). Despite the fact that these two choices are significantly different from each other, the veto players are incapable of changing either of them. In the third case, the first mover is located inside the legislative core but changes her mind and moves from point L1 to point L2. Since the first mover is inside the core, she can always select her own ideal point.

This simple example shows that the Nice Treaty rules, by increasing the number of veto players and likely increasing the size of the core, increase the latitude of the courts and bureaucracy to interpret and implement policy as they wish. There is one additional



Note: First mover outside core (J or K) selects closest point inside core (J' or K'); first mover inside core (L1 or L2) selects own ideal point.

Figure 2.9 Selection of a policy within the core by first mover (bureaucracy or judiciary)

point concerning the simple account raised in the literature. Given that the courts or bureaucracy in the game presented above will be able to select a policy close or identical to their own ideal point, what will the legislative branch do to prevent this event from materializing? There is an extensive literature arguing that legislation will be written more restrictively when there are many veto players (Huber and Shipan 2002; McCubbins et al. 1987, 243; 1989, 430; Moe 1990, 213; Moe and Caldwell 1994, 171). This is a valid point, and if the legislature can come to an agreement, then they will restrict both bureaucrats and judges. Consequently, multiple veto players will lead to more lengthy, specific, and bureaucratic legislation when legislation can be agreed upon. The changes proposed by the Convention and in the Lisbon Treaty make it easier to come to such agreements, restricting the independent power of judges and bureaucrats. In the next subsection I discuss the evidence, both theoretical and empirical, supporting the arguments presented here about the substantive impact of these institutional changes on decisionmaking in the EU.

1.2.4 Qualified majority in the Council: to what extent does it impede decisionmaking?

In the previous subsection I argued that, in principle, increasing the qualified majority threshold makes reaching decisions more difficult. The argument is simple and straightforward, but the actual differences between the sets of procedures introduced at Nice in 2001 and at the Convention in 2003 (and later put into effect through the ratification of the Treaty of Lisbon) may have been effectively inconsequential. Here I will use results from Tsebelis (2005) as well as König and Bräuninger (2004) to argue quite the opposite: the differences between the proposals put forth at Nice and the Convention are significant

and consequential. The failure to adopt these new proposals would have had deleterious effects.

Tsebelis and Yataganas (2002, 283) have analyzed the dynamics of bargaining at Nice and argued that it was the first time that the Council's three voting criteria (qualified majority of weighted votes, majority of states, and qualified majority of populations (62 percent)) did not coincide and that different countries were attached to different principles. The Nice Treaty required a triple majority to pass anything by QMV: 72 percent of the weighted votes must be cast in favor of the proposal, comprising a majority of member states and 62 percent of the EU's population.² As a result, the conferees in Nice adopted the detrimental strategy of including all three criteria for valid decision-making. In other words, the countries bargaining at Nice were involved in a collective prisoners' dilemma in which it was individually rational to insist on their own preferred criterion but that collectively resulted in a suboptimal collective outcome. As a result, they became collectively worse off by their inability to strike a compromise (see also Galloway 2001).

Tsebelis (2006) used the number of winning coalitions in the Council to represent the different decisionmaking rules. The short-term effects of Nice were minor. Indeed, under the 62/87 qualified majority rule, which was in effect before the Treaty of Nice, the number of winning coalitions with the single qualified majority criterion was 2549/32768 (7.77 percent). This number would have been slightly restricted by the triple majority to 2513/32768 (7.67 percent).

The effects of the triple majority become even less significant in a European Union of 15 members with the weighting system adopted by the Nice Treaty itself. Now with the simple qualified majority criterion (169/237) the number of winning coalitions became 2707/32768 (8.26 percent), while with the triple majority it was reduced to 2692/32768 (8.21 percent).

With the expansion to 25 members, the difference between the simple qualified majority criterion (255/345) and the triple majority criterion remains insignificant (the number of winning coalitions goes down from 1,204,448 to 1,203,736). What is significant is that these numbers identify only 3.58 percent of all possible winning majorities in the Council following expansion.

It is to the great credit of the Convention and its leader Valéry Giscard d'Estaing that they correctly identified the source of the high policy stability generated by the Nice Treaty: two of the decisionmaking requirements (majority of countries and qualified majority (60 percent) of the population) significantly decrease the restrictions on the decisionmaking process. The key restriction comes from the qualified majority requirement of weighted votes. As a result, the Convention leadership introduced the much more permissive double criterion. The frequency of valid decisions increases by a factor of 6: from 3.58 to 22.5 percent. So, the frequency of valid decisions went from 8 percent in a Union of 15 (before or after Nice) to 3.58 percent in a Union of 25 (after Nice) to 22.5 percent under the Convention proposal, and back down to 10 percent under the Brussels IGC (the text rejected by the referendums).

However, Tsebelis' (2006) numbers can be challenged on the grounds that they do not

² Votes were weighted, roughly, by population size under the Nice criteria.

incorporate the preferences of the actors. As becomes clear in Figure 2.4 it is not always the case that more veto players lead to more policy stability; the distance of these players matters too. Tsebelis' (2006) results are based on the assumption that all potential coalitions are equally probable. This is not necessarily the case: it is more likely that countries located close to one another in the policy space will make coalitions more frequently. In addition, if countries enter into competition as to which one will be included in winning coalitions, then the "competitive" price for entering a coalition will be the same per unit of support (each vote, or the representation of each million voters, depending on the decisionmaking rule in the Council).

An alternative way of calculating the size of the core of EU institutions is provided in König and Bräuninger (2004). They consider the positions of the different countries in a two-dimensional policy space. The first dimension is a general left–right dimension using the per capita income of the different countries as a proxy of this underlying preference. The second is policy positions on agricultural issues, approximated by the size of agriculture as a share of the country's GDP.

Using both these indicators, they calculate the core of the Council, presenting a comparison before and after the expansion as well as a comparison between Nice and the Convention text. In both cases, the core expands significantly with more countries, as well as with the Nice Treaty rules. This method also has its own drawbacks. The proxy variables may be considered objectionable. However, because the new countries have not participated very much in voting either in the Council or in the European Parliament, one cannot use their voting records to approximate their policy positions, so this is perhaps the best proxy available to establish their policy positions.

Despite the differences in assumptions about coalition formation in the EU constituent bodies, all of these different methods come to very similar conclusions: the core of the EU expands because of the rules introduced in Nice and the expansion to 27 countries. But is there any empirical evidence to support them? I have to point out that it is very early for empirical tests, and that the evidence is going to be sparse, but there are considerable indications in support of these contentions. Here I will use only some data presented by the Commission (for additional evidence see Tsebelis (2008)).

In a report entitled "Better Lawmaking 2005," the Commission finds that the number of legislative proposals significantly declined during the first year of the application of the Nice rules following enlargement. According to the report, "[g]enerally, the number of legislative proposals fell in 2005 by 17.5 percent compared to 2004 and by 10.5 percent compared to the 2003–04 average. That decrease applies for all types of proposal: regulations (–21), directives (–24), decisions (–46) and recommendations (–2). The biggest relative drop is in the number of directives, which fell by 47 percent compared to 2004."

1.2.5 Policy implications

In the previous subsections I demonstrated that imposing constraints on the decision-making of the Council (or the Parliament) leads to further difficulties in Union decision-making, since increasing the core of the Council increases (or at best leaves unchanged) the size of the core of the Union as a whole. I explained that the restrictions imposed by the Nice Treaty are very significant, and that the proposals made at the Convention to drop one of the qualification requirements for Council agreement increases by a factor

of 6 the number of decisive coalitions possible in the Council (according to Tsebelis 2006) or decreases significantly the size of the policy core (according to König and Bräuninger 2004). In both cases, changes of the status quo are made much easier under the Convention proposal, or the Lisbon compromise, than under the status quo (Nice Treaty). These are quantitatively significant differences, but why should one care whether the Union is able to make political decisions or not? Could we perhaps say that a Union that is unable to decide politically is a better institution than a politically active Union? After all, decisions will be made at the national level and maybe the people of Europe will have more control over the decisions affecting them. The debate over the proper extent of Union competencies is one that has become increasingly urgent. The tradeoff between greater efficiency through coordination at the European level and the specific needs and demands of individual countries, along with concerns about national sovereignty, is fuzzy.

While there is no general “philosophy” about which issues should or should not be in what jurisdiction (why is it better for countries to have fiscal but not monetary discretion, as determined by the Maastricht treaty?), the Union’s ability to make political decisions is directly linked to which decisions will be made, *de facto*, by the political institutions of the Union and which will be made by other institutions (national or supranational). I focus here on the national ones.

Is it better for a political system to have more or less policy stability? There is no general answer, unless a political system occupies some kind of extreme position (e.g. if unanimity is required for decisionmaking in a parliament like the Polish *Sejm* prior to 1791, or decisions on human rights are made by simple majority in which case a majority can decide to oppress the human rights of a minority) (Tsebelis 2002). Obviously the European Union does not fall into an extreme category like either of these. However, whether it should choose a set of institutions that allow for greater policy flexibility (stability) depends on what type of environment we expect to encounter in the future. Will the EU be facing an economic and political environment with lots of shocks (and, therefore, high variance of external conditions)? The developments of terrorism, potential trade conflict with the United States, globalization and the opening of new markets are all external shocks that may be too big for individual European countries to effectively respond, and may therefore require a coordinated adjustment. In this case, decisions by the European Union will become more necessary, not less. If this is an accurate prospect for Europe, then restricting the Council’s decisionmaking capabilities undermines the Union today more than it did in the past. This is as much the crux of the federalist debate today as it was when the Union began in the 1960s: is coordination among the individual countries necessary in order to create an entity able to negotiate with superpowers like the US and the Soviet Union (in the past) or China (in the future) and influence decisions worldwide? Or will individual countries have to negotiate on their own (with a high probability of becoming “pricetakers”)?

As a result of this analysis and a reasonable expectation that common shocks will become bigger in the future, I argue that the steps taken in Nice in a Union of 27 countries are negative, and the ratification of the Lisbon Treaty has been a positive development for citizens of the European Union. After the negative referendums in France and the Netherlands, the Nice rules risked becoming permanent. The insistence of countries on their own rights and a continued lack of focus on collective

consequences would inevitably lead to an inability of the Union to address new issues. Ultimately, this would leave each country to make its own decisions, but with only its own forces, facing situations where its own weight may not be enough to confront difficult conditions. Thus, the institutional changes agreed to under the Lisbon Treaty are important because they will allow member states greater opportunities to coordinate when this is needed in the future. In the next two sections I describe the most important parts of the process that produced the Convention document first, and the Lisbon Treaty second.

2 TATONNEMENT IN THE EUROPEAN CONVENTION

This section describes how one of the procedural impossibilities of reforming European institutions was removed.³ The President of the Convention was able to produce results through the astute use of several significant agenda control tools that he developed. He limited the number of amendments from Convention delegates by restricting the amount of time that the Convention would spend on the whole process, by eliminating amendments, and juxtaposing them; he prohibited voting, and produced results “by consensus,” with him defining the meaning of the term. Here I will focus on two major uses of procedures as political weapons: the first negative, the second positive.

Negative tatonnement (elimination of discussion of Nice) On 15 May 2003, President Giscard summarized the amendments on institutions, and referred to some of them, of a significant number, which demanded maintenance of the status quo. He went on to wonder “whether such a status quo approach was compatible with the mandate which the Convention had received at Laeken” (European Convention 2003). Giscard reiterated the mandate given to the Convention by the Laeken European Council:

First question: how can we increase the democratic legitimacy and the transparency of the three current institutions? Second question: how can we reinforce the authority and efficiency of the European Commission – which proves well that we cannot be satisfied with the current situation? And third question: can we keep the six month rotation of the Council? Your amendments must respond to these questions of Laeken and it is a matter of fact that the group of amendments which insists on retention of the current system obviously does not respond to the Laeken questions. (ibid.)

The importance of this statement should not be understated. The implicit rule in all IGCs was a comparison of the proposed solution with the status quo. This was the reason that all expansions were moving around the previous decisionmaking rule. Given the required unanimity the only possible modifications were essentially incremental. Looking back at Table 2.1 we can verify that moving from 12 countries to 15 in 1995 led to a change in the required majorities from 54/76 (a percentage of 71.05) to 62/87 (a percentage of 71.26).

³ For a more extended discussion of the agenda-setting procedures that Giscard followed in the convention see Tsebelis and Proksch (2007).

Giscard applies the “successive agenda” (Rasch 2000: 9) where alternatives are introduced one after the other, and whichever achieves a majority (in the Convention case “consensus”) is adopted. Giscard is buttressed here by the fact that successive agenda procedures prevail in most European countries (including the EU Parliament), but it is the elimination of the status quo from the comparison set that enables him (and the Convention) to produce a clear alternative deviating significantly from the status quo.

There is another, methodological reason that we should pay attention to Giscard’s statement. While he refers to the mandate from Laeken, at this point it is not clear what the new set of rules will be (or for that matter, whether there will be a new set of rules). The mandate was asking for more efficient institutions, but could not specify the exact form these institutions should take. In other words, while we have some general rules of endogenous institutional design (Laeken), the specific form can only be achieved by the interactions between the individual actors involved in the Convention. Had Giscard not taken this position, or had he been defeated on the issue by his opponents in the convention, or had the representatives not approved the final document, we would have been back to square one, despite the “need” for such a document expressed in Laeken.

Positive tatonnement (iterated agenda setting) Giscard introduced iterated agenda setting as a standard procedure of the Convention. In a one-shot game the agenda-setter makes a proposal that is amended, accepted, or rejected by the floor. This approach assumes that there are procedures in place that determine which amendments eventually prevail (e.g. amendments with the largest support coalition). In the European Convention, a one-shot agenda-setting game could have resulted in either failure (no amendments get accepted) or in the modification of the proposed amendments and the acceptance of constitutional provisions by shifting majorities. Through iteration, however, the Presidency guaranteed a systematic influence on outcomes. The procedure Giscard applied in the Convention was that he and the Praesidium would propose amendments, and if alternative amendments were available they would synthesize them and produce new amendments until consensus was reached. But the major feature of the system is that the floor of the Convention cannot introduce amendments directly, but has to go always through the Praesidium.

This is one instance where political elites invented an institution that promoted tatonnement as much as possible: that is, reached their preferred outcome or, if this was impossible, a different point that was as close as possible to it.

President Giscard d’Estaing (G) had a central position inside the Praesidium, which was centrally located inside the Convention (Tsebelis 2006). Here I will show how it is possible for such a centrally located figure to achieve outcomes very close to his ideal point. Figure 2.10 shows the effects of iterated agenda setting. There are four members in the Convention (A, B, C, and D) and, for simplicity, I assume that decisions require the support of a majority (3/5). If the President (centrally located at G) proposes his own position G, it can be amended by proposal G’. Through iteration this amended proposal can be amended back to G” and still enjoy majority support. While the proposal G’ is far away from the preferences of Giscard, the alternative proposal G” brings the final outcome close to the President’s preferences.

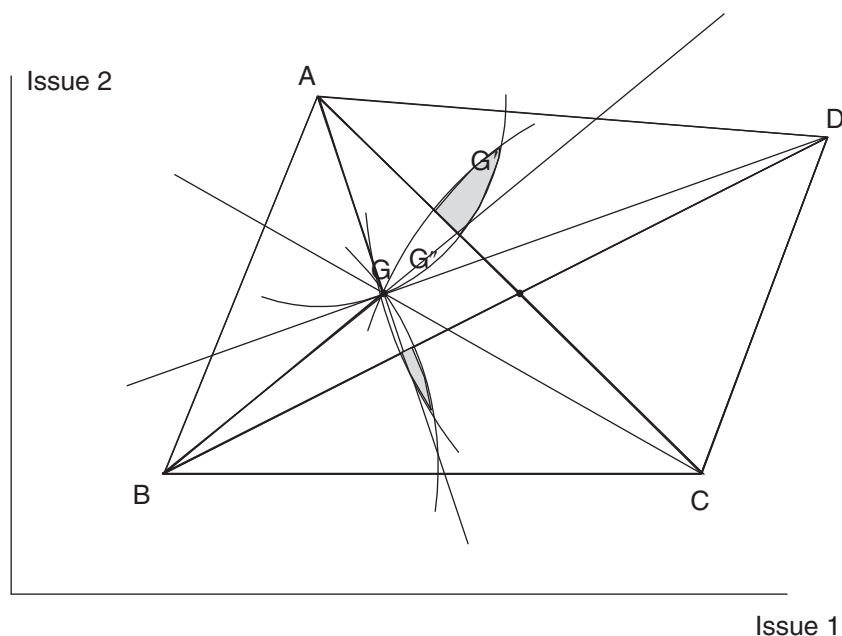


Figure 2.10 *Effect of iterated agenda setting*

3 TATONNEMENT FROM THE “NO” REFERENDUMS TO BRUSSELS AND LISBON: ACHIEVING THE IMPOSSIBLE

This section discusses the last obstacle to the reform of the EU institutions: bypassing the announced and failed referendums for the final adoption of the new institutions of the EU.⁴ Following the “no” votes in France and the Netherlands, avoiding another set of referendums became a necessity for national politicians interested in a more flexible EU. Even then, the referendum in Ireland (the only unavoidable one) had to be repeated (just like *The Godfather*, the EU made Ireland an offer it could not refuse) and a constitutional decision in the Czech Republic nearly derailed the process before today’s plain sailing to EU reform (to be fully materialized in the year 2013). New obstacles emerged from inter-governmental bargaining under the Merkel EU Presidency that were difficult to subdue until the Lisbon agreement was reached. I will deal here with two issues: the problems arising from national referendums (and the “no” votes in France and the Netherlands; negative measures enabling subsequent tatonnement) and the way that the subsequent

⁴ This section is based on the JCMS Lecture I gave in the EUSA Conference in Montreal on 17 May 2007, under the title: “Thinking about the recent past and the future of the EU” (Tsebelis 2008). The lecture was given before the Brussels conference, when the prevailing belief was that of an impasse of the reform process and I was predicting the advancement of EU reform as the only possible solution. I would like to thank Sven Oliver Proksch and Lisa Blaydes for their help.

dispute surrounding agreement at the Brussels IGC under the Merkel presidency was resolved (positive *tatonnement*).

3.1 The Referendums and the Impasse They Generated

I will not deal with the referendum process and why it was adopted by some countries. For what follows here we need to know only one thing, a piece of common knowledge gained from the whole history of the EU: referendums are highly uncertain events. Even in countries with strong parliamentary majorities in favor of the EU, referendums are events that can produce positive or negative results with a probability of almost 50 percent (as can be inferred by the numerous referendum results that have 4 or 5 as the first digit of their percentage). The reason for this disconnect between the parliaments and voters on the EU, I argue, is because legislators consider changes to the European Union texts relative to the status quo while voters consider only the text, ignoring the status quo policy outcome.

Given the large number of blocking coalitions possible under the Nice institutions, politicians desiring an effective European Union were in favor of moving institutions toward those laid out in the Convention text. However, the voters in these countries are not engaged in the same complex comparisons as their parliamentary representatives between the status quo and the new option presented to them when deciding to vote up or down in an EU referendum. The evidence shows that EU voters did not consider the status quo reversion point when making their vote choices. They, by and large, considered issues largely unrelated to the treaty text up for a vote. Of those objections that were related to the actual document, voters largely failed to account for the fact that the rejection of the Constitution implied that the Nice institutions would continue to dictate the movements of policy (which, as discussed above, would worsen the issues that voters were concerned with relative to the Constitutional Treaty) and not something that they prefer more than the Constitution.

Knowing this truism of the unpredictability of referendum outcomes, and confirming it with the two “no” referendums in France and the Netherlands, European governments were determined to avoid the referendum process at all costs. There was one country where this strategy was a legal impossibility: Ireland, which has a constitutional requirement for a referendum on issues of European integration. Despite the ratification failure, the constitutional document was the EU’s only negotiated and agreed-upon solution to its problem of increasing policy immobility. While the document itself has been subjected to many criticisms from diverse political perspectives, it is the only document approved by the governments of all EU countries. Finding agreement between 25 countries is an impressive feat and abandoning that agreement would have been quite costly.

In order to bypass voters, the governments sacrificed two of the unifying symbols of the EU (the “Ode to Joy” as EU anthem and the 12-star flag) and removed the “constitutional” tag from the document, but these were small prices to pay to improve the performance of European institutions. So, this is another brilliant example of the removal of obstacles in order to apply the *tatonnement* process. European leaders removed the serious institutional constraints that were making the adoption of the institutions impossible (referendums) by providing only “symbolic” sacrifices in the process. Proceeding

in the old way led to the abandonment of the term “constitution” as well. However, the practice has always been that intergovernmental treaty agreements have served as the working European constitution. So the text was left largely unchanged with the “constitution” tag eliminated. This small concession avoided ratification by referendum (with the exception of Ireland).

The Convention (and IGC) decision to decrease policy stability in the European Union was an important one because under the Nice rules the European Union would have been unable to function. Regardless of the legal form of the new compromise and the method selected for its ratification, the substance of the new EU treaty had to be derived from the existing document. In other words, the compromise agreed upon in Brussels had to be the focal point of any EU constitution. The IGCs in Brussels and Lisbon put in place a process toward ratification but not without strenuous fights to obtain the required unanimity.

3.2 The Fight in the Brussels IGC

Angela Merkel, the German Chancellor, was able to forge a compromise that essentially preserved the text adopted in Brussels in 2004 precisely because of its focal point qualities (all accounts indicate that she knew that any modification would open an unending discussion about other points requiring change) in the Council meeting she led in the same city in 2007. In addition, educated from the French and Dutch referendum experience, she produced a strategy for adoption that avoided referendums as much as possible.

In her efforts to have the same text accepted, she entered into serious conflict with the Polish leadership, who wanted to preserve the voting rules of Nice and, in the absence of these rules, advocated the adoption of the “square root” rule produced by the power index literature. The “square root” rule was supported by many EU academics (e.g. Hosli and Machover 2004; Kauppi and Widgrén 2004), some of whom urged EU member states in 2004 to adopt the proposal in an open letter, signed by 47 scholars (Open Letter 2004). As these academics claimed, the Swedish government had already proposed such a solution since 2000. Figure 2.11 captures the essence of this government conflict.

In this figure, I present the population size of the EU countries, their voting weight according to the Nice Treaty, and the approximation of these weights by a linear and a square root function. It is clear that for Poland (as well as Spain) the Nice rules produce significantly better results than the square root rule, which is better than the linear function. For Germany it is exactly the opposite: the linear function is the best, followed by the square root rule, and last is the Nice Treaty. The source of the conflict between Germany and Poland is obvious on the basis of this figure.

This conflictual situation was magnified by the fact that Poland, being in favor of the status quo, could block the whole procedure, and Germany, by virtue of being the President of the EU at the time, was responsible for the meeting’s agenda. As Figure 2.11 indicates, the conflict could not be more pronounced. The figure also suggests that the situation would have been substantially different if another country with less clearly pronounced preferences over the alternatives (say one of the other big countries, France or Italy or the UK) or one more sympathetic to the Polish point of view (say a Scandinavian country) had occupied the Presidency.

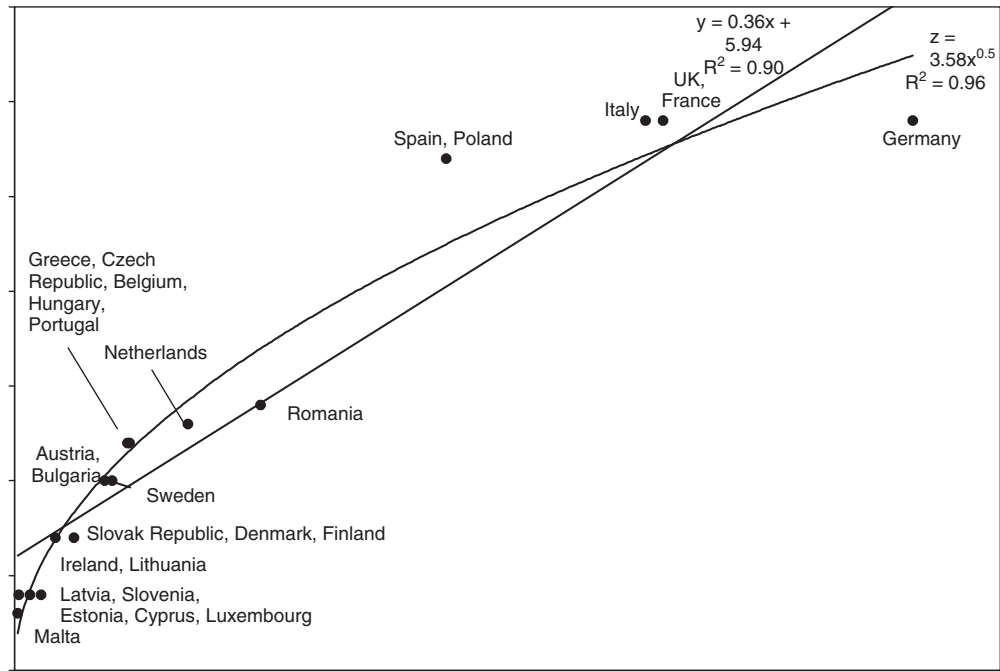


Figure 2.11 *Population and voting power of EU countries with linear and square root approximations*

4 DISCUSSION OF THE UNION'S ACHIEVEMENT

This chapter has argued that the Convention presidency created institutional means of agenda control. This factor was key in overcoming the plausible possibility of no agreement among European political elites. The ensuing convoluted process of IGCs and failed referendums on the Constitution highlight two questions. First, why do political elites have a different attitude than the masses towards the EU Constitution? Second, how was the adoption of the Constitution worked out so smoothly, while the ratification process was derailed? The answers to both these questions are related.

First, the difference between elites and the masses in their response to the Constitution can be explained by reference to the reversion point. The constitutional process specifies that whenever an agreement cannot be reached the European Union reverts to the previous ratified agreement. This statement implies that if the EU Constitution is not adopted, the EU reverts to the Nice Treaty. This outcome had been unacceptable for European elites for quite a while. This is the reason for the decision to move to a constitutional convention. The Nice Treaty rules along with the expansion of the EU to 25 (and now 27) countries would make political decisionmaking next to impossible in the EU. This is the reason that the process of revision was initiated and concluded among elites. However, the masses had a different point of view. Whether it was fear of foreigners, or bureaucracies (both France and the Netherlands), or inflationary currency (the

Netherlands) or fear of weakening of the welfare state (France), the masses were rejecting the EU Constitution not because of a comparison with the alternative (the Nice Treaty) but because of consequences irrelevant to the Constitution. Indeed, adoption or rejection of the Constitution has no effect on inflation, or foreigners, or the welfare state. It does have an impact on bureaucracies (Tsebelis 2005) but exactly in the opposite to the feared direction. It is the rejection of the Constitution that is more likely to lead to more bureaucracy. So, it is the lack of comparison of the effects of the Constitution relative to the status quo at the level of the masses that most likely generated the negative referendum outcomes.

Strange as it may seem, the answer to the second question, why the Constitution was adopted painlessly but had difficulty being ratified, is to a large extent the same. It is precisely because elites were aware of the alternative that they were eager to adopt a new constitution. What this study points out is that, in addition to this understanding that agreement was imperative, the European Convention came to a conclusion *because* the Praesidium under the leadership of Giscard had a unified conception and exercised all its agenda-setting powers: the ones attributed to them by the Convention mandate as well as the ones generated on their own through the procedures of their own making (the elimination of amendments, the iterated agenda-setting process, and the absence of voting). But the most important moment of the Convention was Giscard's refusal to reintroduce the Nice institutions for debate (and the replacement of the amendment agenda by the sequential agenda).

Understanding that the adoption of a constitution was an exceptional event made possible by the combination of a very creative, consistent, and overpowering agenda-setting process and the impasse created by the status quo (Nice Treaty) explains how we came to an EU Constitution, and how difficult it was to move away from the document. And this realization may be helpful when Europeans contemplate counterfactuals to the institutional treaty that was eventually adopted in Lisbon.

In conclusion, Valéry Giscard d'Estaing and the Praesidium of the Convention deserve credit for leading the Convention to an outcome that simplified the previous treaties, was internally consistent, and produced institutions that can function for an enlarged EU. However, they were unable to anticipate the rejection of their text at the hands of Dutch and French voters because these rejections were, to a large extent, unrelated to the content of the Convention's work. There was no indication during their drafting of the constitutional text that so many referendums would be called, let alone any indication of the lens through which voters would make their decisions about the constitution.

The inability to rely on voters to decide on EU referendums on the basis of European issues led to the decision of Angela Merkel to bypass voters altogether and return to the traditional intergovernmentalist approach. Merkel and her team were able to overcome serious objections in the Brussels Intergovernmental Conference and impose the only natural set of focal EU institutions on all participants. Her task was made easier by the rise of a new government of Spain that did not align with Poland for a return to Nice. However, it was still a Herculean task: I have demonstrated that Poland had very good reasons to insist on Nice and was aided by the unanimity requirement; I have demonstrated that most small-size countries would prefer a "square root" solution for a weighted voting rule in the Council. Yet, Merkel constructed the necessary coalition and used the appropriate arguments to unite the EU around the only possible focal point.

The fact that this focal point was also Germany's most preferred outcome made the completion of her task sufficiently urgent to press for staying with the earlier compromise.

Let us assume for the moment the counterfactual: that a country preferring the "square root" solution or one more or less indifferent between the various weighting schemes happened to occupy the EU Presidency at the time. In this situation the EU focal point of the Convention document was not supported strongly by the President's country interests. It would be difficult to imagine that under these circumstances the Presidency would place EU interests ahead of the national preferences, and the most likely outcome would have been survival of Nice, or at best adoption of the "square root rule," if the Presidency in this case was able to close off renegotiation of other issues. In addition, Merkel was a credible and respected politician; one can easily imagine that the situation would have easily resulted in an impasse with a less skilled or respected politician (Berlusconi?) at the helm, whether from a big country or from a small one. So, even if only one of these necessary (and jointly sufficient) conditions had been absent we would have moved to a situation where the Nice Treaty would have likely survived for the foreseeable future.

This chapter has demonstrated the divergence between the strategic calculations of EU elites and the gut reaction of EU publics, which was resolved in favor of the elite point of view, in two steps: first the elimination of referendums which threatened to derail the unification process, and second the reintroduction of the Brussels compromise as the only focal point of EU integration. If either of these steps had not been possible, the Nice institutions would have almost assuredly survived and no reform would have been possible.

EU institutions are very difficult to modify for two reasons. First, because they require exceptionally high majorities (unanimity in IGCs and very high qualified majorities even in legislative procedures); second, because the preferences of the different countries are highly divergent. These are the reasons that they have remained stable for decades despite the series of conferences aimed at modifying them.

The last sequence of constitutional modifications was successful because these obstacles were bypassed. First, instead of using the Nice Treaty as the default solution (which would have guaranteed its eternal preservation) Giscard was able to remove it from the table (as I demonstrated in the second section) and produce his own default solution. Second, this substitution of the default solution enabled the institutional solution he produced to have remarkable survival capacities. It was only slightly modified in a six-year process where most of the relevant national actors were replaced by their successors or their opponents. Yet, all of these actors understood very well that the only possible solution was in the neighborhood of Giscard's proposal. So they kept the tatonnement process: they eliminated the obstacles that were incompatible with the process (referendums) and modified slightly the solutions to satisfy marginal objections (tatonnement with the Irish referendum) so that the institutional solution became viable. Table 2.1 showed how this process worked: a big departure from Nice (because of Giscard's substitution of the default alternative) and small modifications subsequently (because of tatonnement around Giscard's proposal).

What is important to understand is that the same conditions that for so long had generated the inability to make significant changes to EU institutions (from Rome to Nice) were put in place for a different default solution (the Convention proposal) and gave it the same survival properties.

REFERENCES

- BBC News (2000) "Blair hails Nice success." 11 December 2000. Available at news.bbc.co.uk/2/hi/luk_news/1065039.stm. Retrieved 27 October 2010.
- Closa, Carlos (2004) "The Value of Institutions: Mandate and Self-mandate in the Convention Process." *Politique européenne* 2: 7–20.
- de Witte, B. (2001) "The Nice Declaration: Time for a Constitutional Treaty of the European Union?" *International Spectator* 36 (1): 21–30.
- European Convention (2003) "Summary of Plenary Meeting on 15 May 2003." Available at <http://register.consilium.eu.int/pdf/en/03/cv00/cv00748en03.pdf>.
- Galloway, David (2001) *The Treaty of Nice and Beyond: Realities and Illusions of Power in the EU*. Sheffield: Sheffield Academic Press.
- Hosli, Madeleine O. and Moshe Machover (2004) "The Nice Treaty and Voting Rules in the Council: A Reply to Moberg (2002)," *Journal of Common Market Studies* 42 (3): 497–521.
- Huber, John D. and Charles R. Shipan (2002) *Deliberate Discretion? The Institutional Foundations of Bureaucratic Autonomy*. Cambridge: Cambridge University Press.
- Kauppi, Heikki and Mika Widgrén (2004) "What Determines EU Decision Making? Needs, Power or Both?" *Economic Policy* 19: 221–66.
- König, Thomas and Thomas Bräuninger (2004) "Accession and Reform of the European Union: A Game-Theoretical Analysis of Eastern Enlargement and the Constitutional Reform." *European Union Politics* 5 (4): 419–39.
- Magnette, Paul (2001) "Appointing and Censuring the European Commission: the Adaptation of Parliamentary Institutions to the Community Context." *European Law Journal* 7 (3): 292–310.
- McCubbins, Mathew D., Roger G. Noll and Barry R. Weingast (1987) "Administrative Procedures as Instruments of Political Control." *Journal of Law, Economics, and Organization* 3 (2): 243–77.
- McCubbins, Mathew D., Roger G. Noll and Barry R. Weingast (1989) "Structure and Process, Politics and Policy: Administrative Arrangements and the Political Control of Agencies." *Virginia Law Review* 75 (2): 431–82.
- Moe, Terry M. (1990) "Political Institutions: The Neglected Side of the Story." *Journal of Law, Economics, and Organization* 6: 213–53.
- Moe, Terry M. and Michael Caldwell (1994) "The Institutional Foundations of Democratic Government: A Comparison of Presidential and Parliamentary Systems." *Journal of Institutional and Theoretical Economics* 150: 171–95.
- Moravcsik, Andrew (2006) "What Can We Learn from the Collapse of the European Constitutional Project?" *Politische Vierteljahresschrift* 47 (2): 219–41.
- Open Letter to the Governments of the EU Member States (2004). Available at <http://www.esi2.us.es/~mbilbao/pdf/letter.pdf>.
- Rasch, Bjørn Erik (2000) "Parliamentary Floor Voting Procedures and Agenda Setting in Europe." *Legislative Studies Quarterly* 25: 3–23.
- Santoni, Michele and Francesco Zucchini (2004) "Does Policy Stability Increase the Constitutional Court's Independence? The Case of Italy during the First Republic (1956–1992)." *Public Choice* 120 (3–4): 439–61.
- The Economist* (2003) "Brussels Breakdown." Available at http://www.economist.com/realarticleid.cfm?redirect_id=2300460. Retrieved 27 October 2010. First published 18 December 2003.
- The Economist* (2005) "The Europe that Died." Available at <http://www4.economist.com/research/articlesBySubject/display.cfm?id=&startRow=379&endrow=393&type=country&subject=France>.
- Times Online* (2008) "Irish Voters Sign Death Warrant for EU's Lisbon Treaty." Available at <http://www.timesonline.co.uk/tol/news/world/ireland/article4134077.ece>.
- Tsebelis, George (1994) "The Power of the European Parliament as a Conditional Agenda-setter." *American Political Science Review* 88: 128–42.
- Tsebelis, George (2002) *Veto Players: How Political Institutions Work*. Princeton: Princeton University Press and Russell Sage Foundation.
- Tsebelis, George (2005) "Agenda Setting in the EU Constitution." Paper presented at the Domestic Structures and European Integration Conference, Brussels.
- Tsebelis, George (2006) "The European Convention and the Rome and Brussels IGCs: A Veto Players Analysis." In Thomas König and Simon Hug (eds), *Preference Formation and European Constitution-building: A Comparative Study in Member States and Accession Countries*. ECPR/Routledge.
- Tsebelis, George (2008) "Thinking about the Recent Past and the Future of the EU." JCMS lecture. *Journal of Common Market Studies* 46 (2): 265–92.
- Tsebelis, George and A. Kreppel (1999) "Coalition Formation in the European Parliament." *Comparative Political Studies* 32 (8): 933–66.

- Tsebelis, George and Jeannette Money (1997) *Bicameralism*. Cambridge and New York: Cambridge University Press.
- Tsebelis, George and S.O. Proksch (2007) "The Art of Political Manipulation in the European Convention." *Journal of Common Market Studies* 45 (1): 157–86.
- Tsebelis, George and Xenophon Yataganas (2002) "Veto Players and Decision-Making in the EU after Nice: Policy Stability and Bureaucratic/Judicial Discretion." *Journal of Common Market Studies* 40 (2): 283–307.
- Yataganas, Xénophon (2001a) "The Treaty of Nice: The Sharing of Power and the Institutional Balance in the EU – A Continental Perspective." *European Law Journal* 7 (3): 242–91.
- Yataganas, Xénophon (2001b) "Delegation of Regulatory Authority in the EU: The Relevance of the American Model." Jean Monnet Working Paper 3/01.