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Still pedaling? The Impact of Eastern Enlargement on European Union Decision-Making

ABHANDLUNG

zur Erlangung des Titels

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Für Eva

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Executive Summary (English)

The study *Still pedaling? The Impact of Eastern Enlargement on European Union Decision-Making* assesses the impact of Eastern Enlargement on the European Union's (EU) decision-making process from a rational-choice institutionalist perspective. The analysis is presented in four separate articles, which address different but connected issues of Eastern enlargement and the EU decision-making process. The first article coauthored with Dirk Leuffen explores anticipatory behavior of old member states preceding EU enlargement rounds. The second article, also coauthored with Dirk Leuffen, takes up the issue of enlargement effects by addressing the question of how group-size affects decision-making speed in the EU. In the third article I turn to the processes of EU decision-making. I develop a new model of EU decision-making, which builds on and extends the well known Compromise Model (Van den Bos 1991; Achen 2006b) by introducing a stronger focus to procedural questions. Finally, the fourth paper utilizes the Procedural Compromise Model, presented in the third article, to assess whether the new member states have adopted the cooperative style of Council bargaining after Eastern enlargement. This paper informs us about procedural continuity after enlargement.

The overall analysis makes the following three major contributions to existing studies. First, I show that it is rational to act cooperatively within Council negotiations, providing strong support for a rational-choice institutionalist reading of EU decision-making. For time periods preceding and following Eastern enlargement, I show that the member states maximize their utilities by following the cooperative style of Council bargaining, so frequently described in descriptive analyses of the Union. Second, by presenting the Procedural Compromise Model, I illustrate in line with Achen (2006a) that combining the cooperative style of Council bargaining with procedural elements of the decision-making process is the way ahead for future modeling attempts. Additionally, the approach visualizes that the Procedural Compromise Model can derive valuable expectations about the EU decision-making process in general. Finally, two new datasets – the European Union Legislative Output (EULO) dataset and an extended version of the Decision-making in the European Union dataset (Thomson et al. 2006) – are being made available to the research community. In future, both of these datasets can be used to further analyze European Union politics. Especially the EULO dataset contains valuable, new information, which has not yet been analyzed systematically.

In a nutshell the main results of the study are summarized as follows. Enlargement has not changed the cooperative style of Council bargaining. At the cost of slower decision-making, the continuously cooperative approach to EU decision-making has maintained the Union's capacity to act. While still possible, it has, therefore, become more difficult to find unity within diversity. The Union seems less flexible and less well capable to adapt and to react to internal crises and global events in the future.

Executive Summary (Deutsch)

Die Studie *Still pedaling? The Impact of Eastern Enlargement on European Union Decision-Making* analysiert den Einfluss der Osterweiterung auf Entscheidungsfindungsprozesse innerhalb der Europäischen Union (EU) aus Sicht des rationalistischen Institutionalismus. Die Analyse ist in vier separate Artikel gegliedert, welche unterschiedliche, aber miteinander interagierende Themenfelder der Osterweiterung und des europäischen Entscheidungsfindungsprozesses behandeln. Während der erste Artikel antizipierendes Verhalten der alten Mitgliedsstaaten vor unterschiedlichen Erweiterungsrounds untersucht, widmet sich der zweite Artikel der Geschwindigkeit der Entscheidungsfindungsprozesse. Beide Artikel wurden zusammen mit Dirk Leuffen verfasst. Im dritten Artikel wird ein neues Modell der EU-Entscheidungsfindungsprozesse entwickelt, welches auf dem bekannten Kompromiss Modell (Van den Bos 1991; Achen 2006b) beruht, allerdings prozedurale Aspekte in dieses Modell mit aufnimmt. Der letzte Artikel wendet das im vorigen Artikel vorgestellte Prozedurale Kompromiss Modell auf die Osterweiterung an und analysiert inwiefern sich die neuen Mitgliedsstaaten dem kooperativen Verhalten im Ministerrat angepasst haben.

Die Studie ergänzt die existierende Literatur in drei wichtigen Punkten. Erstens wird gezeigt, dass es rational ist, sich kooperativ im Ministerrat zu verhalten. Vor und nach der Osterweiterung gilt, dass die Mitgliedsstaaten ihren Nutzen maximieren, wenn sie den kooperativen Verhandlungsstil im Ministerrat anwenden, welcher häufig von deskriptiven Analysen des Entscheidungsfindungsprozesses beschrieben wird. Dieses Resultat unterstützt die rationalistisch, institutionalistische Interpretation der europäischen Entscheidungsfindungsprozesse. Zweitens hebt die Entwicklung des Prozeduralen Kompromiss Modells und sein empirisches Abschneiden hervor, dass in Übereinstimmung mit Achen (2006a), das Kombinieren von kooperativem Verhalten und prozeduralen Elementen ein erfolgversprechender Weg für zukünftige Modelle des europäischen Entscheidungsfindungsprozesses ist. Drittens und letztens werden zwei neue Datensätze – der European Union Legislative Output (EULO) Datensatz und eine erweiterte Version des Decision-making in the European Union (Thomson et al. 2006) Datensatzes – der Forschungsgemeinschaft zugänglich gemacht. Besonders der EULO Datensatz enthält wichtige neue Informationen, welche noch nicht systematisch analysiert wurden.

Die wichtigsten Resultate der Studie können wie folgt zusammengefasst werden. Die Osterweiterung hat den Verhandlungsstil des Ministerrats nicht verändert. Der weiterhin kooperativ geprägte Verhandlungsstil führt zu einer Aufrechterhaltung der Entscheidungskapazitäten bei einer gleichzeitigen Verlangsamung der Entscheidungsprozesse. Die Europäische Union erscheint daher weniger flexibel und schlechter gewappnet, um zukünftigen internen wie globalen Krisen erfolgreich zu begegnen.

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SPRACHEN

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EDV

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Stata (sehr gut)
Java (gut)
Matlab (Grundkenntnisse)

Publikationen

- 2010 Hertz, Robin und Vivien Lo (2010) 'Mittelständische Unternehmen im Emissionshandel: Unsicherheiten Dominieren', *KfW-Bankengruppe Akzente Nr.17*, Februar 2010.
- 2010 Leuffen, Dirk and Robin Hertz (2010) 'If Things can Only get Worse. Anticipation of Enlargement in European Union Legislative Politics'. *European Journal of Political Research* 49(1): 53-74.
- 2009 Bailer, Stefanie, Robin Hertz and Dirk Leuffen (2009) 'Oligarchization, Formalization, Adaptation? Linking Sociological Theory and Enlargement Research', *Journal of European Public Policy* 16(1): 162-174.

**Still pedaling? The Impact of Eastern Enlargement
on European Union Decision-Making**

by

Robin Hertz

Introduction

Former Polish president and Solidarity trade union leader Lech Walesa described Eastern enlargement by the words: “My ship has come to port” (BBC 2004). What might have been true for the Eastern European countries struggle against dictatorship and injustice and for freedom and democracy is quite different for the European Union (EU) institutions. From their perspective, Eastern enlargement resembles, although undoubtedly a large one, merely one further step in the process of European integration since the 1950s. The European integration process has frequently been compared to riding a bicycle: either you keep pedaling or you fall off. But how has the accession of twelve new member states impacted on the European Union institutions and consequently their ability to push forward the process of European integration? Are the EU institutions still pedaling after the accession of twelve new member states or has the sheer increase in numbers bogged down EU decision-making? I study these questions by analyzing the impact of enlargement on the EU decision-making process. While the everyday decision-making process of the EU is occupied with specific policy areas, and does not push forward European integration in the same way as Treaty negotiations, it is undoubtedly an important, incremental part of the integration process itself (Thomson & Hosli 2006). In fact there are good reasons to believe that everyday decision-making strongly influences the integration process at the Treaty level. Since the day-by-day decisions of the European Union impact on every citizen’s daily life, the EU’s success at this stage strongly determines its acceptance within the population. The ratification process of the Constitutional Treaty, with the no votes in France and the Netherlands, has shown that EU integration can no longer be dictated by the political elites. This strongly enhances the importance of the EU’s ability to perform at the institutional level and underlines the necessity for studying how the EU’s institutions have coped with the unprecedented accession of twelve new member states.

The study of the European Union has strongly been influenced by the emergence of new institutionalism in the late 1970s and 1980s. In general, new institutionalism developed as a reaction to behavioral perspectives prominent in the 1960s and 70s, arguing that institutions are important for explaining social and political outcomes (see Hall & Taylor 1996 and Aspinwall & Schneider 2000 for an overview). Three different strands of new institutionalism

are generally distinguished: historical institutionalism, sociological institutionalism, and rational-choice institutionalism. Although all three strands commonly assume that institutions influence individual action (Aspinwall and Schneider 2000), the divide between historical and sociological institutionalism on the one hand and rational-choice institutionalism on the other is substantial. The role of preferences is a prominent example of this divide. While rational-choice institutionalism assumes preferences to be exogenously given, both other strands perceive preferences as endogenous or constituted through institutions (Powell & DiMaggio 1991).

Within this study I assess the impact of Eastern enlargement on the EU decision-making process in the context of rational-choice institutionalism. The EU decision-making process has extensively been analyzed within the rational-choice institutionalism tradition (Crombez 1996, 1997; Van den Bos 1991; Bueno de Mesquita & Stokman 1994; Tsebelis 1994; Thomson et al. 2006). The common understanding of rational-choice institutionalism is that “goal-orientated actors operate within institutional constraints” (Thomson & Hosli 2006: 7). The appeal of rational-choice institutionalism for analyzing the decision-making process of the European Union lies in its micro-foundational clarity and its ability to formulate testable predictions. Other approaches to European Politics have mainly focused on the issue of European integration per se (Thomson & Hosli 2006). Neo-functionalism, for instance, argued that spillovers will lead to a continuous cycle of integration (Haas 1958), while intergovernmentalism views the member states as important agents in the process of integration (Hoffmann 1966).

The literature on enlargement has frequently focused on the accession process of enlargement (Schimmelfennig & Sedelmeier 2002), which has been studied from a sociological institutionalism and constructivist perspective (e.g. Tewes 1998; Fierke & Wiener 1999) as well as from a rationalist viewpoint (e.g. Fioretos 1997; Schneider 2009). Rationalist approaches have, however, also focused on the consequences of enlargement (e.g. König & Bräuninger 2004; Baldwin et al. 1997; Baldwin & Widgrén 2005; Mattila 2009; Thomson 2009). I build on this literature to assess whether Eastern enlargement has changed the way decisions are made in Brussels. The analysis is presented within four separate articles, which address different but connected issues of Eastern enlargement and the EU decision-making process. The first article coauthored with Dirk Leuffen explores anticipatory behavior of old member states preceding EU enlargement rounds. How does the EU and old member states prepare for enlargement? While institutional reforms have been treated elsewhere, we focus

on how the expectation of enlargement impacts on EU decision-making before enlargements actually occur. The second article, also coauthored with Dirk Leuffen, then takes up the issue of enlargement effects by addressing the question how group-size affects decision-making speed in the EU. It complements the extensive existing event history literature on EU decision-making (Golub 1999, 2007, 2008; Schulz & König 2000; Golub & Steunenberg 2007; König 2007, 2008). In the third article I turn to the processes of EU decision-making. I develop a new model of EU decision-making. This model, which I call Procedural Compromise Model, builds on and extends the well known Compromise Model (Van den Bos 1991; Achen 2006) by introducing a stronger focus to procedural questions. The model takes up suggestions formulated by the qualitative literature on EU decision-making and successfully concurs with existing formal models of EU decision-making. Finally, the fourth paper utilizes this Procedural Compromise Model to assess whether the new member states have adopted the cooperative style of Council bargaining after Eastern enlargement. This paper informs us about procedural continuity after enlargement.

Thematically, the analysis covers a wide range of Enlargement issues. While the first two articles focus on macro-level developments, i.e. the volume of legislative acts passed and the duration by which these acts have been adopted, the fourth article – building on article three – assesses micro-level changes after Eastern enlargement. It addresses the new member state's behavior within the bargaining process. A compelling framework for these effects is provided by Coleman's (1990) bathtub model of macro-micro-macro effects. Coleman (1990) assumes that the macro-level framework impacts on an individual's characteristics and orientations. These in turn determine micro-level behavior, which, once changed, impacts on the observed macro-level phenomena. Figure 1 applies the bathtub model to the context of EU enlargement and EU decision-making. I start with the assumption that enlargement takes place and therefore refrain from asking why enlargement occurs in the first place. At the first step enlargement impacts on the future expectations of the relevant actors. These in turn determine the political behavior of the actors within the decision-making process, which in turn is shaped by the actions of the individual member states and institutions at the micro-level. Below I provide a short summary of each article utilizing the theoretical context of Coleman's (1990) bathtub model.

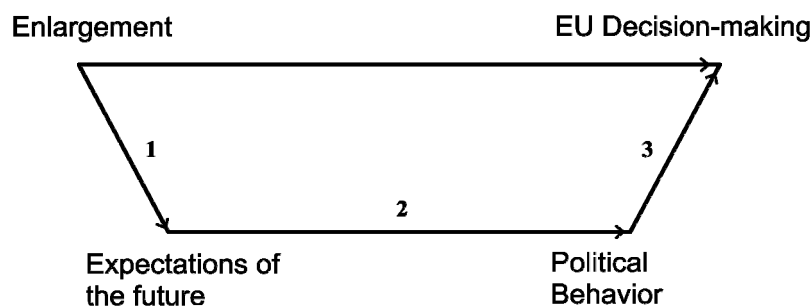


Figure 1: The Bathtub Model (Coleman 1990).

Article One: Anticipating Enlargement (co-author: Dirk Leuffen).

The first article addresses the issue of anticipation. We argue that the old member states anticipate enlargement and change the volume of acts adopted prior to enlargement. Whenever the old member states expect that the new members will shift decision outcomes away from their preferred policy alternative, the old member states have an incentive to adopt legislation before enlargement actually takes place. We test this claim by running negative binomial regression models on the European Union Legislative Output (EULO) dataset, accounting for possible anticipation effects in the months prior to five different enlargement rounds. The version of the dataset used for the analysis in the first article contains all binding legislative acts adopted between 1976 and 2007. Our empirical analysis supports the theoretical claim: old member states tend to adopt more legislative acts directly before enlargement. The anticipation story presented in article one can easily be applied to the micro-macro model presented in Figure 1. The shadow of enlargement impacts on the future expectations of the old member states (Arrow 1 in Figure 1). These in turn lead to a change in political behavior (Arrow 2) which in turn influences decision-making in Brussels prior to enlargement (Arrow 3).

Article Two: Too big to Run? (co-author: Dirk Leuffen).

After we have analyzed pre-enlargement effects in article one, article two addresses post enlargement effects by studying the duration of the decision-making process. Based on rational accounts of EU decision-making and transaction costs theory, we argue that EU decision-making should slow down as the number of members increase. While winning coalitions might form even in a larger group, the process until an act is successfully adopted should take more time, because enlargement leads to a more complex informational environment. It has, for instance been argued that side payments and package deals combining

asymmetric solutions in different policy areas will become increasingly difficult to manage (Scharpf 2006: 851). Again actors face a different environment in which they have to operate. Since they, *ceteris paribus*, need to process more information, decision-taking at the macro-level should take longer. Accordingly we argue that this should lead to a slowing down of EU decision-making (Arrow 3). We test this hypothesis by running semi-parametric Cox models on the PreLex-based EULO Dataset. Following recent suggestions from the literature (Golub 2007), the dataset is coded to include time-varying covariates. Our analysis shows that EU decision-making speed in fact declines as group-size grows. This is especially true for Eastern enlargement.

Article Three: A Procedural Compromise Model.

Article three presents the Procedural Compromise Model which is utilized in article four to study adaptive processes within the Council after enlargement. Article three thus constitutes a stepping stone in the analysis of enlargement effects. The analysis of Thomson et al. (2006) shows that the Compromise Model (Van den Bos 1991) does best in predicting decision outcomes in Brussels. This is in so far astonishing, as the Compromise Model does not contain any EU specific elements, but merely takes a weighted average of preferences, salience, and power of the actors involved. Procedural models of EU decision-making, which have exclusively focused on EU specific characteristics of the decision-making process, have in turn performed extremely poorly (Steunenberg & Selck 2006). I argue that the Compromise Model's predictive accuracy can be improved by incorporating the Compromise Model's bargaining outcome into an EU specific procedural context. In consequence, I present a Procedural Compromise Model, which accounts for the agenda setting role of the European Commission and the cooperative bargaining process in the Council. The model is tested on the pre-enlargement Decision-making in the European Union (DEU) dataset (Thomson et al. 2006) and compared to the Compromise Model as well as relevant Procedural Models.

Article Four: The new members adapt: cooperative behavior prevails.

The fourth article focuses on the behavior of the new member states within the Council of Ministers after enlargement has taken place. I assess whether the new member states have adapted the cooperative style of Council bargaining. Extending the Procedural Compromise Model presented in article three to include a non-cooperative strategy, I show on the basis of

an extended DEU dataset, that the new member states have utilitarian reasons to act cooperatively. Once the new member states enter the Council as full members, the institutional setting will influence their expected utility assessment (Arrow 1). Since the Council meets frequently over a long period of time (e.g. Axelrod 1981, Axelrod 1984), it is expected that the Council's institutions foster cooperative behavior (Arrow 2). Finally, I argue that cooperative behavior on the sides of the new member states has two implications for the Union's decision-making process in general. While the EU's capacity to act is maintained, decision-making speed should decrease (Arrow 3).

The issues discussed in the four articles are analyzed by three different methods and two novel datasets. The first two articles, which focus on the volume and the duration of legislative acts, utilize statistical methods in the form of negative binomial regression and semi-parametric Cox models respectively. The regression analyses are conducted on the EULO dataset. The third and fourth papers implement semi-quantitative analyses in line with *The European Union Decides* study (Thomson et al. 2006). This ground-breaking study of EU decision-making processes empirically tested a variety of decision-making models derived from rational-choice institutionalism. These included cooperative (Van den Bos 1991) and uncooperative (Bueno de Mesquita 1994) bargaining models, procedural models (Crombez 1996), and mixed models (König & Proksch 2006; Widgren & Pajala 2006). In both, the third and the fourth, articles I utilize this methodological approach to test the Procedural Compromise Model on the pre-enlargement dataset provided by Thomson et al. (2006) and an extended version of this dataset covering a post-enlargement time period.

I will conclude this introduction by discussing in more depth the two main datasets used in my analysis. Both datasets were developed in the context of the SNF-funded research project "Does group size matter? European governance after enlargement" at the ETH Zurich.¹ The extended DEU-dataset was constructed in cooperation with Robert Thomson (Trinity College).

The DEU Dataset and its extension

The DEU dataset is the most extensive dataset available on EU decision-making. I refrain from introducing the DEU dataset in detail here, because the dataset is well known and prominently discussed by Stokman & Thomson (2004) and Thomson & Stokman (2006). The dataset has been collected via expert interviews in Brussels and contains information on the preferred policy alternatives, salience, and powers of the individual actors involved in the

decision-making process on a total of 174 controversial issues discussed in Brussels.² The data on preferences and salience is stored on issues ranging from zero to 100. In the case of preferences, the two extreme points on the issue scale are determined by the two most opposing positions within the discussions on the issue. In the case of salience, zero stands for no importance and 100 for the highest importance for a stakeholder. The extended dataset, which covers a time period after Eastern enlargement, contains information on the negotiations of 54 proposals and 159 controversial issues. In order to grant comparability, this dataset was collected in line with the initial DEU dataset by several scholars (Hertz 2006; Arregui & Thomson 2009; Research Project at the ETH Zurich). 51 of the 159 issues are adopted by the consultation procedure, while 108 are adopted by the Codecision procedure. Most of the issues included were adopted between the summer of 2007 and April 2009, while the earliest issues included in the sample were adopted in the summer of 2005. The structure of the dataset is illustrated in Table 1.

COM Number	Issue Number	Procedure	Outcome	RP	PAT	PBE	PCom	PDK
COM(2007)605	n100000i1	1	0	0			100	
COM(2007)605	n100000i2	1	100	0			100	
COM(2007)699	n100001i1	3	0	0	0	0	50	0
COM(2007)701	n100002i1	1	50	0	30	10	30	60
COM(2007)861	n100003i1	3	10	0	0	5	50	5

Table 1: DEU Dataset Structure.

In the above table the numbers for the outcome, the reference point, and the positions of the countries have substantive meaning on the specific issues identified by experts in Brussels. In the case of the Council regulation on the protection of vulnerable marine ecosystems in the high seas from the adverse impacts of bottom fishing gears (COM(2007) 605), a controversial issue discussed in Brussels was the degree by which fishing vessels carrying out fishing activities with bottom gears in the high seas should be observed (n100000i2). The final outcome, noted as a 100 in table one, stated that observers shall be on board all fishing vessels carrying out such activities. Austria, Belgium, and Denmark, didn't have positions on this issue, i.e. their salience was zero. When combining the pre and post enlargement cases, the dataset contains over 330 controversial issues discussed in Brussels. At the preference level this dataset therefore provides the most extensive information on EU decision-making processes available to date.

The European Legislative Output Dataset

The EULO dataset is based on information provided by the European Commission. The dataset contains information on 23'296 legislative acts adopted by the European Union. 15'876 of these are binding legislative acts, i.e. directives, regulations, and decisions. These acts constitute the basis of the statistical analyses in the first and second article. The dataset was collected by a computer program, which downloaded information from the Commission's PreLEX and EUR-Lex web pages. See (König et al. 2006) for a discussion of combining information from the PreLEX and EUR-Lex databases.³ The unit of the dataset is a single legislative act. For each legislative act, the dataset, for instance, contains information on its Commission number, its name, its legal basis, the type of instrument, the procedure by which it was adopted, the voting rule in the Council, information on whether the act was adopted or for instance withdrawn by the Commission, the field of activity, the originating Directorate General of the Commission, the name of the Parliament's Rapporteur, dates for all events by which the act was adopted, and the full texts of the individual legislative acts. Table 2 provides an exemplary view of the dataset structure.

Case ID	COM Number	Type	Field	Adoption by Council
9907	COM (1965) 207	Directive	Agriculture	24 July 1979
11750	COM (1969) 6	Directive	Taxation	23 July 1990
9424	COM (1971) 1232	Directive	Industrial poli...	25 July 1978
9425	COM (1971) 288 - 1	Regulation	Agriculture	21 December 1976
9426	COM (1971) 288 - 2	Regulation	Agriculture	21 December 1976
11761	COM (1970) 600	Regulation	Company law	
9421	COM (1971) 887 - 2	Directive	Right of estab...	19 July 1982
9420	COM (1971) 887 - 3	Directive	Right of estab...	19 July 1982

Table 2: EULO Dataset Structure.

Unfortunately, not all information could be collected via the computer program, implemented using Java. Especially information on the procedure and the rule by which the Council voted upon the act had to by a large extent be collected via the EUR-Lex webpage and the legal basis of the act by hand. This was necessary because the rule and the procedure are frequently defined only by the legal texts on which the legislative act is based. Figure 2 visualizes the number of directives, regulations, and decisions adopted per month from January 1976 to June 2009. Strong fluctuations are observed within a single year. This is a result of the Council presidency cycles as well as the August months, in which hardly any legislative output is recorded, due to the summer vacations of the European institutions. Several large peaks can be observed, cases in which more than 100 legislative acts are adopted within a single month.

Article one shows that some of these peaks can be related to the anticipation of enlargement. Generally, however, Figure 2 does not visualize a direct link between group-size which has increased over the period from 9 in 1976 to 27 in 2009 and the quantity of legislative output. On average EU legislative output is higher in the late 1980s and early 1990s, in the forerun of completing the single European market by the adoption of the Maastricht Treaty in 1993.

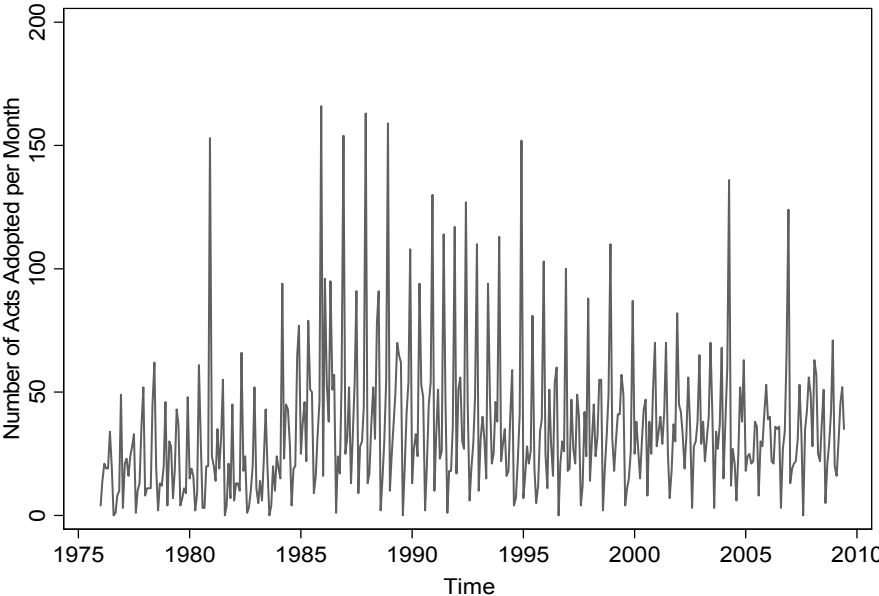


Figure 2: Volume of acts adopted 1976-2009

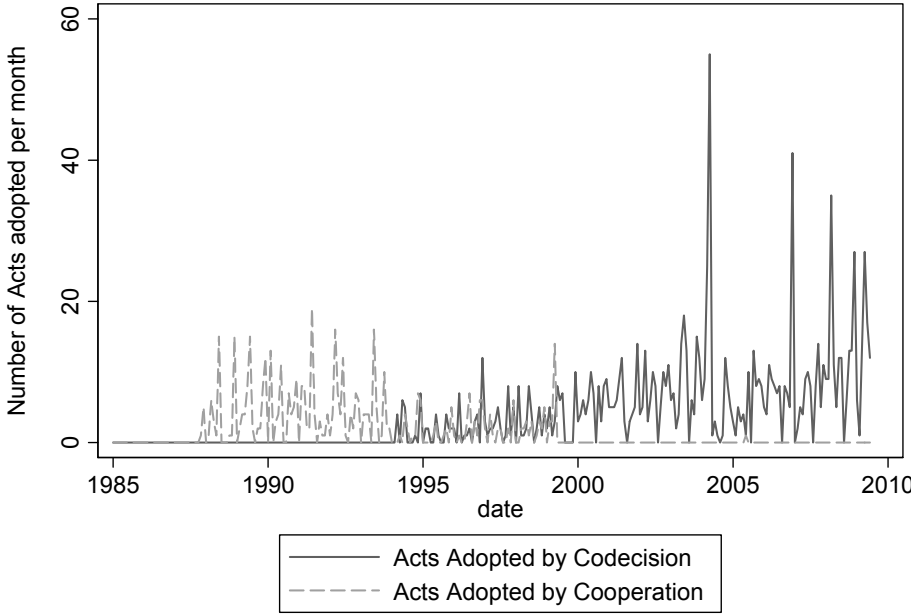


Figure 3: Volume of acts adopted by procedure 1985-2009

The EULO Dataset also provides valuable information on EP involvement and the use of various decision-making procedures. Figure 3 illustrates the number of acts adopted by the Cooperation and the Codecision Procedures over time. The Cooperation Procedure was introduced by the Single European Act in 1987 and became increasingly popular during the late 1980s and early 1990s. In 1993 the Treaty on the European Union introduced the Codecision Procedure, which led to a reduction of acts adopted by the Cooperation Procedure. After initial starting difficulties, the use of the Codecision Procedure has kicked off after the Amsterdam Treaty came into force in 1999. Over the last decade, the use of the Codecision Procedure has increased substantially.

Similar to the volume of acts adopted, the speed by which acts have been adopted has not changed dramatically over the past 30 years (Figure 4). The median act spent more than 150 days but less than 200 days within the decision-making process in 1976. After decision-making speed increased until the mid-1980s – disregarding 1983 – it has continuously decreased thereafter, reaching slightly lower levels in the past couple of years than recorded for 1976. The EULO dataset also provides information on the speed by which directives, regulations, and decisions have been adopted. While directives, on average, spend more time in the decision-making process, their speed of adoption has not increased over the past 20 years. A similar pattern is observed for decisions. The trends observed for all legislative acts are clearly driven by the decision-times of regulations, which make up the bulk of all legislative acts. Article two shows that these trends are in part determined by the number of EU members. As new members have entered the Union, decision-making speed has decreased. This finding especially holds for Eastern enlargement.

Additionally, the EULO dataset includes information on the length of the legal acts adopted – a variable not yet available to the research community. Figure 5 illustrates the average length of the legal texts adopted over time. In the 1970s, the average length of a legal text was around 10'000 characters. This has tripled to nearly 30'000 characters in the past couple of years. The length of legal acts remained more or less constant until the early 1990s, but increased substantially during the past two decades, a structural break occurring in 1994-1995. In general, the increase in length can be attributed to the increased complexity of EU matters. New policy fields have been transferred to the competencies of Brussels, and as time has passed already existing legislation needed to be amended. These characteristics of the Union's success ultimately demanded more complex legislative acts. Whether the increase in length observed in Figure 5 also relates to the growth in group-size is possible but not

verifiable by simply analyzing a graph. While the length of legislative acts remains an interesting qualitative variable, which most certainly calls for further analysis in the future, the variable is not included in my analyses below.

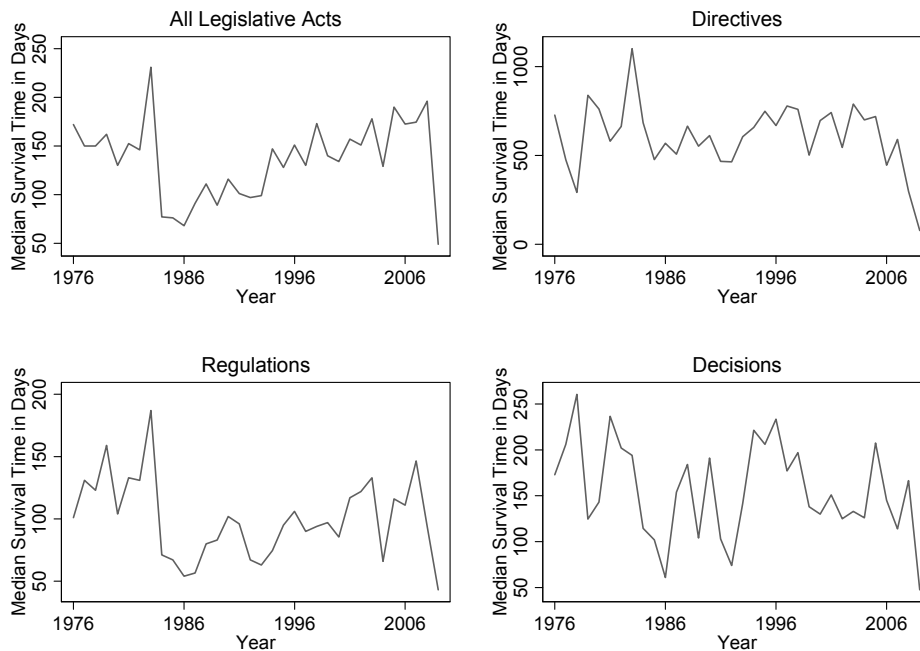


Figure 4: Durations of Different Legal Instruments 1976-2009

The extended DEU dataset and the EULO dataset are both used to study the link between enlargement and the EU decision-making process. My analyses lead to three main findings. First, enlargement effects are not restricted to the post-enlargement period but can affect EU decision-making even before the actual event takes place. Second, EU decision-making speed has slowed down after enlargement rounds in general and after Eastern enlargement more specifically. Against the picture of many “business as usual” findings to date (e.g. Hertz & Leuffen 2008, 2010; Mattila 2009), this is bad news for the Union’s ability to function within an ever more demanding globalized world. Finally, the accession of twelve new member states has not undermined EU decision-making per se. The new member states have adapted to the cooperative style of Council bargaining. The finding that decision-making after enlargement has slowed down, while still being based on cooperative behavior is no contradiction. In fact, the slowing down of the decision-making process can directly be deduced from the set up of the Procedural Compromise Model and the empirical finding that the new member states adopted the cooperative style of Council bargaining. The link between cooperative behavior and decision-making speed is discussed in article four.

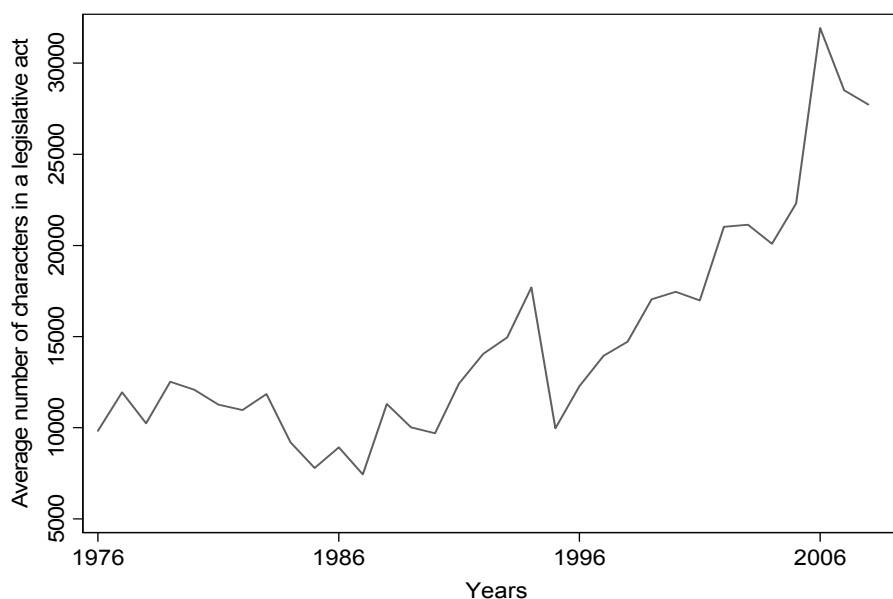


Figure 5: Length of Legal Acts 1976-2009

The following chapters of the dissertation resemble the individual articles discussed above. While the subsequent chapter addresses anticipation effects prior to enlargement (article one), the third chapter discusses EU decision-making after enlargement (article two). The fourth chapter then introduces the Procedural Compromise Model (article three), which is finally used in the fifth chapter to assess cooperative behavior on the part of the new member states (article four). The final and sixth chapter concludes.

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Notes

1. SNF project number: 100012-120772.
2. Bailer (2004) discusses the validity of preference data obtained by expert interviews.
3. A similar dataset has been made available by a research group lead by Prof. Goetz at the University of Potsdam. While his dataset contains additional information on, for instance, Council acts, i.e. cases which did not run through the inter-institutional decision-making process, it lacks information on, for instance, following variables: rule, procedure, length of acts. For further details see http://www.uni-potsdam.de/db/lis_regierungssystem_brd/index.php?article_id=460&clang=0.

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If things can only get worse: Anticipation of enlargement in EU legislative politics¹

by

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Abstract

Anticipation is a central feature of political behavior. It has an impact on actors' choices and can change the timing of decisions. This paper analyzes anticipation in legislative politics. After delineating different objects as well as consequences of anticipation theoretically, we derive a set of hypotheses about anticipatory behavior in EU decision-making. In particular, we ask whether the EU Council anticipates the arrival of new member states and how this affects legislative output. We test our theory by estimating count models using a dataset that contains information on all binding EU legislation from 1976 to 2007. Covering five enlargement rounds, we are able to present evidence for anticipatory behavior in EU legislative politics.

Introduction

“We can all see into the future,” whispered the elevator in what sounded like terror, “it’s part of our programming.”

(Douglas Adams, *The Restaurant at the End of the Universe*, 1980).

In line with Douglas Adams’ elevators, most theories of political behavior assume forward looking actors. Actors look ahead to formulate expectations about the behavior of other actors and the future state of the world. In rationalist models, these expectations influence the choices that actors make. Such anticipation is widely applied in decision-making models. In game theory, for instance, human behavior is explained by expected utility theory. Surprisingly, however, there is little empirical work on how precisely anticipation alters the timing of decisions within political institutions.

It is against this backdrop that we address the issue of anticipation. We offer a first systematic account of anticipatory behavior in European Union (EU) decision-making taking place before enlargement rounds. We argue that the accession of new member states should affect the timing of legislative decisions in the EU. In particular, we expect legislative output to rise substantially before new member states accede to the European Union. After an enlargement round, this should lead to a reduction of legislative output, although for different reasons from those suggested by, for instance, veto player theory.

We test our theory by estimating count models based on a new dataset containing information on the legislative progress of all binding EU legislation from 1976 to 2007. This dataset enables us to assess anticipation effects in the context of five enlargement rounds.

Negative binomial regression models strongly confirm that anticipatory action takes place in the EU before the arrival of new member states. There is a clear increase in legislation, concentrated in the months before the accession of new member states. This holds even after deleting those acts that are linked to the issue of enlargement, such as preparatory acts. Based on our results, we argue that anticipation clearly adds to our understanding of the EU’s legislative output over time. It should therefore be taken into account more systematically by empirical research.

Anticipation in legislative politics

Anticipatory behavior is a common feature of policy making. A policy-oriented US-president will not veto legislation when he expects to be overridden by Congress (cf. Cameron 2000; Krehbiel 1998). The fact that he abstains from submitting a veto does not mean that the president likes the piece of legislation enacted by Congress. Simply, the risk of being overridden imposes costs on the president. Cameron (2000: 19) shows that the threat of a presidential veto can, on the other hand, affect the content of the policies that Congress enacts. In order to avoid a veto, Congress can accommodate critiques and present a solution that is acceptable for the president. Again, although no direct action of the president can be observed, his veto threat imposes constraints on Congress. In the EU, the second face of power (Bachrach & Baratz 1962) has an impact on the European Commission's agenda setting activity (Crombez 1996: 202). The Commission rarely submits legislative proposals that are later rejected by the Council and the European Parliament. Similarly, according to Garrett et al. (1998: 151), the European Court of Justice seeks to avoid making decisions that governments are likely to defy. In all these examples, anticipation affects policy choices in a substantive manner. However, empirical evidence for the impact of anticipation within the EU is scarce. In the first comprehensive empirical study testing different EU decision-making models, procedural models, which assume the Commission to make a proposal based on the anticipation of the Council's and the EP's behaviour, scored fairly poorly (Thomson et al. 2006). While we refrain from linking the content of specific policy outcomes to anticipatory behaviour, we show in this paper that anticipation does play a role in determining the flow of EU legislative output.

Anticipation is a central component of expected utility theory, in which actors are assumed to make decisions based on the prospects they face, and their attached probabilities. In game theoretic models, actors forecast other actors' behavior, as well as possible changes in the state of the world before choosing their own utility-maximizing actions. Such anticipation is assumed when solving dynamic games of perfect information through backward induction (cf. Morrow 1994: 124; McCarty & Meirowitz 2007: 175).

Since the works of Bernoulli (1954 [1738]) and Von Neumann and Morgenstern (1947), several shortcomings of expected utility theory have sparked the development of rival theories, as well as extensions to the initial foundations. Empirical evidence has shown that actual choice behavior systematically violates some of the assumptions made by expected

utility theory (for an overview, see Starmer 2000). The evidence includes violations of the independence axiom (e.g. Allais 1953), procedure invariance (e.g. Lichtenstein & Slovic 1971; Lindman 1971) and description invariance (Tversky & Kahneman 1981). Proposed solutions include prospect theory (Tversky & Kahneman 1981), which addresses the framing of choices, extensions of expected utility theory (e.g. Machina 1982), and the theory of disappointment (e.g. Loomes & Sugden 1982). But despite their differences, all these theories share the belief that actors make decisions on the basis of their prospects. The anticipation of future consequences determines how decisions are made today.

So far, most research on anticipation has been conducted by economists (for instance Dornbusch 1976; Wilson 1976; Liviathan 1984; Drazen 2003)². One issue raised by this literature and only recently taken up by political scientists is the timing of decisions. While there is a growing interest in timing and temporality in political science (Pierson 2004), a gap exists between the theoretical models and the empirical testing (Morton 1999: 9). In the remaining part of this paper we therefore focus on the issue of timing in our analysis of EU decision making in the context of enlargement.

Anticipation in the context of EU enlargement

In the EU, enlargement is a major event with an impact on decision-making. So far, the EU has experienced six enlargement rounds (see Table 1). After the accession of Bulgaria and Romania it now consists of 27 member states. Since the mid 1990s, Eastern enlargement has been a major issue on the EU's agenda (Schimmelfennig 2003). The reform packages of Amsterdam and Nice were designed to adapt the EU's institutions to absorb the new member states, which enormously increased heterogeneity within the community (Zielonka 2006). Institutional response of this sort is an example of anticipatory action. Most commentators expected policy stability³ to rise after the accession of new member states, based, for example, on a priori voting power or veto player theories (Baldwin et al. 2000; Tsebelis 2002; Tsebelis & Yataganas 2002; Bilbao et al. 2002; König & Bräuninger 2004; Hertz & Leuffen 2009). Institutional reforms, such as a reduction of decision-making thresholds, were proposed to avoid gridlock after the accession of ten new member states (König 2007).⁴ While Nice is often considered a missed opportunity leading to an ongoing reform debate about the Constitutional treaty and the Lisbon treaty, it is a good example for anticipatory action. A similar type of anticipatory behavior can be found in the context of negotiations on

the Agenda 2007 (the EU's multi-annual spending plan for the period 2007 to 2013). Here the old member states defined the 'absorption capacity' criterion (Conzelmann 2004: 339) before the arrival of the new member states. In addition, an inter-institutional agreement in 1999 declared that if no agreement could be reached, the budgetary plan's limits of the previous year would be continued with only minimal modifications. By such measures the bargaining position of new member states was weakened.

Date of Accession	Accession Countries
01.01.1973	Denmark, Ireland, UK
01.01.1981	Greece
01.01.1986	Portugal, Spain
01.01.1995	Austria, Finland, Sweden
	Cyprus, Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Slovakia,
01.05.2004	Slovenia
01.01.2007	Bulgaria, Romania

Table 1: EU Enlargement Rounds

But how does anticipation of enlargement affect the legislative process within the European Union? In the following, we argue that the inclusion of new players affects the timing of legislative output. Changes in the voting weights of the member states (Baldwin et al. 2000) as well as the preferences of the newcomers need to be accommodated. For instance, König and Bräuninger (2004) or Zimmer et al. (2005: 404) have predicted a qualitative shift of legislation. In addition, the formation of new alliances and coalitions becomes likely. In short, the accession of new member states imposes costs on the incumbents. As forward looking actors, the incumbents should anticipate possible changes to ongoing negotiations. Therefore incumbent member states have an interest in passing those proposals that already are in the legislative pipeline before the arrival of new member states.

In the EU, legislation is proposed by the European Commission and then, in different ways, depending on the various legislative procedures, passes through the European Parliament and the Council in order to be enacted and then to be transposed and implemented by the member states. While the Commission submits proposed acts, the Council and the European Parliament decide on whether and how, but also on when, an act is passed. In our theory, enlargement is an event that is likely to disturb the 'natural' flow of legislation. Let us

assume three points in time: t_0 , t_1 , and t_2 . At all of these time points the legislator can adopt legislative acts. In this context, an anticipated intermediate event at time t_1 can change the decision agendas for both t_0 and t_2 . Enlargement is such an event. Since enlargement is likely to impose costs on incumbent member states, these have an interest in making decisions before the newcomers enter the club. Under such circumstances an act initially scheduled for t_2 might be decided at t_0 .⁵ In the context of social choice, anticipation therefore impacts on the timing of decisions. We expect to observe a rise in legislative output before the accession of new member states.

H₁: Since enlargement is likely to make decision-making more cumbersome, legislative output will rise before enlargement occurs.

The increasing amount of legislation passed at t_0 should have repercussions at t_2 . A decline in legislation should follow anticipatory peaks. But which other observable implications could support our theory? The substantive effects should vary according to the size of the expected ‘shock’. Accordingly, we expect to find stronger effects before Eastern enlargement than before Northern enlargement given the size of the enlargement, but also the expected increase in heterogeneity (Zielonka 2006).

H₂: Anticipatory effects depend on the expected changes. We therefore expect a smaller increase of legislation preceding Northern enlargement as compared to Eastern enlargement.

Our theory suggests that anticipation should depend on expected costs. Therefore one should observe anticipatory action to occur particularly in those policy areas that are considered to be conflict prone. Agriculture is a policy area which has been described as ‘difficult’ or controversial since the Southern enlargements of the 1980s (e.g. Zimmer et al. 2005; Dobbins et al. 2004; Daugbjerg & Swinbank 2004). König and Bräuninger (2004: 432) pointed out before Eastern enlargement that ‘the increased heterogeneity of member state positions will threaten the effective functioning of agricultural decision-making’. The ‘new members have a higher share of agriculture in GDP, a much higher proportion of agricultural labor in the workforce, and household expenditures on food that are considerably above EU levels’ (Herok & Lotze 2000: 662). Therefore we should observe legislative anticipation in agricultural policy making.

H₃: EU legislative output in the area of agricultural policy is likely to rise before the accession of new member states.

Guided by these hypotheses we should obtain a better understanding of the effects of anticipation in the context of EU enlargement. Before we present our findings, the next section introduces the dataset and discusses the methods used to analyze the data.

Data and methods

This section is organized as follows. First, we present our dependent variable, as well as the dataset used to analyze it. Second, we discuss the explanatory variables. Finally, we specify the models used to analyze our dataset.

The dependent variable: Number of acts adopted

According to hypothesis one, incumbent member states within the Council have incentives to decide upon acts before new member states accede to the EU. This should lead to an increase of acts passed prior to enlargement. In order to assess this claim we analyze the output side of EU decision-making.⁶ We measure the output of the EU legislative process by the number of decisions, regulations, and directives adopted per month. We decided to use monthly output as our unit of analysis since anticipatory effects should most likely be observable in the immediate months preceding an enlargement round. Using half-yearly or yearly data would make detecting short-term anticipatory effects more cumbersome, if not impossible.

Several datasets on the EU legislative process exist. The most well known is the dataset provided by König et al. (2006), which contains information on legislative acts (decisions, regulations, and directives) from January 1984 to January 2003. Similarly, Golub (1999) presents a dataset on the EU legislative process containing information on all EU directives between 1974 and 1995. But since these datasets do not include information on the last two enlargement rounds, we assembled a new dataset allowing us to analyze anticipation effects in the course of Eastern enlargement.⁷

The data for our dependent variable were retrieved from the PreLEX dataset provided by the European Commission.⁸ This dataset monitors the decision-making process between the EU

institutions. It contains information on all official documents transmitted by the Commission to the legislator from the 1970s onwards. For assembling our dataset we used a technique called ‘deparsing’. A computer program downloads and orders the information from the Commission’s official webpage. Table 2 provides an overview of the types of information downloaded from the PreLEX website for all identified decisions, regulations, and directives adopted between January 1976 and May 2007.

Variable	Explanation	Example	Type of Information	Missings
Number	COM-Number identifies a specific act	COM(1971) 288 – 1	Text	0 / 13001
Name	Name of the legislative act	Proposal for a Council regulation on health problems affecting intra-community trade in meat products	Text	26 / 13001
Type of File	Information on whether the act is a decision, regulation, or directive	regulation	Text	0 / 13001
Procedure	Information on decision-making procedure by which the act was adopted	Consultation Procedure	Text	6698 / 13001
DG	The Directorate-General of the Commission which is responsible for the act	DG Agriculture	Text	0 / 13001
Adoption	The Date of the final adoption of the act	21dec1976	Date	0 / 13001
Submission	The Date on which the Commission submitted the act into the decision-making process	23mar1971	Date	0 / 13001

Table 2: Variables retrieved from PreLEX.

We are interested in possible anticipatory effects prior to the different enlargement rounds. Since enlargement itself necessitates the adoption of specific preparatory legislative acts, one should observe an increase in legislative acts prior to an enlargement round simply due to such administrative acts alone. This, however, is not the type of strategic anticipation that we suggest in our theory. We therefore exclude such preparatory legislative acts from our analysis. We use two criteria in order to filter out these kinds of acts. The first relates to the name of a legislative act. Whenever a name of a legislative act contained ‘enlargement’, ‘new

member state(s)', or 'accession' it was dropped from the list of assessed legislative acts. A total of 257 legislative acts were identified by this method, after reintroducing such acts that explicitly treated other types of enlargement, as, for example, the accession of the EU to a UN committee. Second, we excluded all legislative acts that were issued by the Directorate-General (DG) 'Enlargement'. Another 179 acts were filtered out applying this criterion. 12,565 legislative acts remain as the basis of our analysis. Removing preparatory acts assures that if our estimates err, it will be on the conservative side.

Based on the information retrieved from PreLEX we construct our dependent variable by counting the number of acts adopted in each of the 377 months from January 1976 through May 2007. Our dependent variable, 'FinalAdoption', is thus a discrete count variable. Legislative output per month ranges from zero acts adopted in various Augusts to 160 legislative acts adopted in December 1987. On average 33 legislative acts are adopted in a single month. The data span three decades and five enlargement rounds; the Greek enlargement in 1981; the accession of Spain and Portugal in 1986; the accession of Austria, Sweden, and Finland in 1995; the Eastern enlargement in 2004; and finally the accession of Bulgaria and Romania in 2007.

The explanatory variables

In order to test our hypotheses, we use the following explanatory and control variables. We expect these variables to have an impact on law production over time.

Anticipation In our theory, anticipation of enlargement should disturb the flow of legislation. In particular, we expect a rise of legislation before the accession of new member states. We test our hypotheses by including a dummy variable for those months that directly precede the accession of new member states. The variable 'ANT' is coded 0 for all months except those directly preceding an enlargement round, in which case the variable equals 1.⁹ While 'ANT' assumes the anticipation effect to be the same across all enlargement rounds, another set of variables allows for estimating the effects of different enlargement rounds ('ANT1981', 'ANT1986', 'ANT1995', 'ANT2004', and 'ANT2007'). 'ANT1981', for instance, measures the impact of anticipation prior to the Greek accession in 1981. It is coded 1 in the month preceding the Greek accession, i.e. in December 1980, and 0 otherwise.

Treaty Changes Four treaties have amended the Treaty of Rome which founded the Union in 1957: the Single European Act (SEA); the Treaty of the European Union (TEU); the Treaty of Amsterdam; and the Treaty of Nice. These treaty changes enacted institutional reforms, such as expansions of qualified majority voting and the introduction and extension of the Codecision Procedure; in addition, new policy areas were integrated into the EU's competence. In line with basic rational institutionalist assumptions, we expect institutional changes to have an impact on policy production (cf. Plott 1991). Growing sectoral and vertical integration should lead to rising legislative output (Schimmelfennig & Rittberger 2006; Börzel 2005). Accordingly, we expect to find a positive relationship between the dummy variables 'PostSEA', 'PostTEU', 'PostAMS', and 'PostNICE' and our dependent variable 'FinalAdoption'. The four dummy variables are coded 1 for those months in which the different treaties are in force. For instance, the SEA came into force on 1 July 1987. For every month from July 1987 to October 1993 – the Treaty on the European Union (TEU) came into force in November 1993 – the variable 'PostSEA' is therefore coded 1, for all other months 0.

EU Members According to most theories of decision-making, group-size should have a negative effect on political decision-making. For instance, in veto-player theory an increase in the number of veto players can only reduce but never extend the size of the winset, that is, the set of outcomes that are preferred to the status quo by a winning coalition (Tsebelis 2002). As the winset decreases (in some cases it can even collapse to the status quo, producing gridlock within the decision-making process), the number of legislative acts successfully adopted by the Council and the European Parliament should also decrease. Capturing the size of the Union, the 'Members' variable counts the number of member states in the EU. We expect it to be negatively related to the number of legislative acts adopted per month.

Commission Input Law production can be thought of as an input-output process, similar to a production process in economics. The Council and the European Parliament can only adopt acts that previously have been submitted into the decision-making process by the Commission. The importance of the Commission's input is, for instance, outlined by Golub (2007: 172) who states that 'as the volume of pending proposals grows, this pressures the Council to reach agreement more quickly on new proposals'. The discrete count variable 'ComSubmission' therefore measures the number of acts submitted into the decision-making process by the Commission each month. We expect 'ComSubmission' to be positively related

to ‘FinalAdoption’. The ‘ComSubmission’ variable enters the models with a four month lag. Once legislative acts have been submitted by the Commission, they are not immediately adopted. The adoption process takes time. The average time a legislative act remains within the EU decision-making process is 265 days. As this average is heavily influenced by a few outliers we attach greater informative value to the median, which is 102 days, or around 3.5 months, which we round up to 4 months.

Monthly dummies Within a year, the number of acts adopted per month fluctuates according to a specific pattern brought about by the Council Presidency cycles. The Council Presidency chairs and organizes decision-making in the Council. The Presidency rotates amongst the member states, a presidency term lasting six months from January to June or from July to December. Legislative output is known to rise at the end of a Council presidency. Accordingly, we should expect more legislative acts to be adopted in June and December. Due to the summer holidays in August, almost no legislation is passed in this month. In order to account for such fluctuations we include monthly dummy variables in our models.

A count model: the negative binomial regression model

Due to the nature of our dependent variable – discrete counts – we estimate a count model. Several count models, including the Poisson Regression Model, the Negative Binomial Regression Model, and the Zero-Inflated Count Model, exist (see King 1988; Long 1997). Due to overdispersion in our data, the Poisson Model should not be applied (Long & Freeze 2006: 266). As our data do not include zero counts that are generated by a different process than other zero and non-zero counts, the Negative Binomial Regression Model seems most appropriate. The Negative Binomial Regression Model accounts for overdispersion. The Negative Binomial Regression Model is defined as:

$$\mu_i = \exp(x_i\beta)\exp(\varepsilon_i) \quad (1)$$

where μ_i is the mean of the distribution from which observation i is drawn. x_i is a vector of explanatory variables and β is the vector of coefficients. ε_i is an error term which is assumed to be uncorrelated with the explanatory variables. Inserting our explanatory variables into equation one, we obtain our baseline model, model 1:¹⁰

$$\text{FinalAdoption}_i = \exp(\beta_0 + \beta_1 \text{ComSubmission}_{i-4} + \beta_2 \text{Members}_i + \beta_3 \text{PostSEA}_i + \beta_4 \text{PostTEU}_i + \beta_5 \text{PostAMS}_i + \beta_6 \text{PostNICE}_i) \exp(\varepsilon_i) \quad (2)$$

Here i represents the observation month ranging from 1 to 377; β_0 is a constant; β_{1-6} are the estimated coefficients for the explanatory variables; and FinalAdoption_i represents the mean expected number of acts adopted in month i . Additionally, we estimate two models that include our anticipation variables. Model 2 includes the ‘ANT’ variable and assesses hypothesis one:

$$\text{FinalAdoption}_i = \exp(\beta_0 + \beta_1 \text{ComSubmission}_{i-4} + \beta_2 \text{Members}_i + \beta_3 \text{PostSEA}_i + \beta_4 \text{PostTEU}_i + \beta_5 \text{PostAMS}_i + \beta_6 \text{PostNICE}_i + \beta_7 \text{ANT}_i) \exp(\varepsilon_i) \quad (3)$$

Model 3 analyzes hypothesis two. It includes the anticipation variables allowing for different anticipation effects prior to each enlargement round:

$$\text{FinalAdoption}_i = \exp(\beta_0 + \beta_1 \text{ComSubmission}_{i-4} + \beta_2 \text{Members}_i + \beta_3 \text{PostSEA}_i + \beta_4 \text{PostTEU}_i + \beta_5 \text{PostAMS}_i + \beta_6 \text{PostNICE}_i + \beta_7 \text{ANT1981}_i + \beta_8 \text{ANT1986}_i + \beta_9 \text{ANT1995}_i + \beta_{10} \text{ANT2004}_i + \beta_{11} \text{ANT2007}_i) \exp(\varepsilon_i) \quad (4)$$

In order to test hypothesis three, we estimate a model on a subset of our dataset containing only acts proposed by DG Agriculture – a total of 3468 acts. Since the treaty changes did not introduce major changes in the field of agricultural policy making, we have not included the institutional variables into our model 4. Otherwise model 4 contains the same variables as model 3. We now turn to our empirical results.¹¹

The impact of anticipation

Our estimates underline the presence of anticipatory effects in EU decision-making. Table 3 displays the results of the Negative Binomial Regression Models.¹² In all models, the number of acts submitted with a four months lag by the Commission is statistically significant and positively correlated with our dependent variable ‘FinalAdoption’. As expected, the more acts the Commission submits, the higher the number of acts that are passed by the Council.

On the other hand, the number of EU member states does not seem to influence legislative output. The ‘Members’ variable is insignificant in the first three models. This is a surprising finding, since most theories suggested a negative correlation between group size and policy stability.

With the exception of the Nice Treaty, all treaty changes increase legislative output in the baseline model – model 1. After the SEA, the expected number of laws rises by 49 per cent holding all other variables constant. For the TEU period the expected output rises by 26 per cent, during the Amsterdam years it rises by 33 per cent. The Nice Treaty does not influence the number of acts adopted in a statistically significant way. The finding is in line with the critiques raised against the reforms of the Council voting rules enacted by this treaty (Moberg 2002).

Model 2 indicates that anticipation plays an important role in increasing the number of adopted acts prior to enlargement rounds. We find that in the months preceding enlargement rounds, there is a 143 per cent rise of the expected number of adopted legislative acts, holding all other variables constant. Model 3 contains information on the different enlargement rounds. We find the strongest effect prior to Eastern enlargement. For April 2004, our model expects legislative output to rise by 425 per cent. In December 1980, December 1985, and December 1995, the expected legislative output rises by 118 per cent, 111 per cent, and 93 per cent respectively. We do not, however, find anticipatory effects prior to the latest enlargement round, the accession of Romania and Bulgaria in 2007.

In model 4, which assesses legislative output in the agricultural field, the anticipation variables for the 1981, the 1986 and 1995 enlargement are significant. Unlike in the other three models, the Members variable is significant in model 4. An additional member leads to a reduction of the expected number of legislative acts adopted by 9 per cent.

Discussion of hypotheses

Hypothesis one postulated that we should find an increase in legislative output prior to enlargement rounds. Our results strongly support this hypothesis. We find a strong increase in legislative output prior to all enlargement rounds, except for the accession of Bulgaria and Romania. The reason for this might be that once Eastern enlargement occurred in 2004, the accession of Bulgaria and Romania represented less of a shock as compared to previous

	Model 1	% change	Model 2	% change	Model 3	% change	Model 4	% change
ComSubmission (lagged by 4 months)	0.008*** (0.002)	0.0	0.007*** (0.002)	0.0	0.007*** (0.002)	0.0	0.017*** (0.005)	0.0
Members	-0.008 (0.016)	-0.8	0.004 (0.012)	0.4	0.011 (0.012)	1.1	-0.089*** (0.014)	-8.5
PostSEA	0.397*** (0.082)	48.8	0.404*** (0.08)	49.7	0.389*** (0.080)	47.6		
PostTEU	0.234* (0.101)	26.3	0.192* (0.089)	21.2	0.165 (0.090)	17.9		
PostAMS	0.289* (0.114)	33.4	0.246* (0.096)	27.9	0.209* (0.097)	23.3		
PostNICE	0.418 (0.248)	52.0	0.229 (0.159)	25.7	0.137 (0.164)	14.7		
ANT			0.890*** (0.226)	143.4				
ANT1981					0.778*** (0.090)	117.6	0.770*** (0.128)	116.0
ANT1986					0.745*** (0.091)	110.7	0.321** (0.122)	37.9
ANT1995					0.657*** (0.084)	92.9	0.393*** (0.113)	48.1
ANT2004					1.659*** (0.128)	425.3	-0.018 (0.190)	-1.7
ANT2007					0.093 (0.119)	9.7	-0.015 (0.192)	-1.5
_cons	2.422*** -0.193		2.310*** (0.163)		2.246*** (0.163)		2.234** (0.255)	
Max. Likel. R ²	0.700		0.718		0.723		0.525	
N	373		373		373		373	

Table 3: Results of Negative Binomial Regression Model.* p<0.05, ** p<0.01, *** p<0.001; all models include monthly dummy variables, they are omitted only for presentational clarity.¹³

enlargement rounds. Adding two members to a group of 25 seems to have been considered less demanding.

If more acts are passed prior to the accession of new member states, does this have repercussions in post-enlargement decision-making? In order to obtain a more complete picture of the number of acts adopted before and after different enlargement rounds, we assess graphically the number of acts adopted in the months around an enlargement event. Specifically, we calculate how the number of legislative acts adopted in each of the six months around an enlargement, differs from the mean of the values of that specific month in the three years before. Figure 1 displays the average of these values over all enlargement rounds. With the exception of the 2004 enlargement, the bars correspond to the months October to March. For 2004, the months February to July are covered. The graph gives some indications of ‘mountains’ and ‘valleys’.

Whereas in the months before an enlargement more legislation than average is produced, with a clear peak in the last month before an enlargement, there is a decline of legislation after the enlargements. This finding stresses the substantive importance of including anticipation in the analysis of EU output over time. When assuming a specific demand for legislation, the decline of legislative output after an enlargement might not be due to increased complexity brought about by a rise in group-size, but a direct result of the previous anticipatory behavior of the old member states.

Hypothesis two suggests different strengths of effects for the different enlargement rounds. Especially Eastern enlargement was expected to have led to large anticipation effects, given the size of the enlargement as well as the economic, political, and cultural differences between old and new member states. This hypothesis is confirmed by model 3. The variable for Eastern enlargement has the strongest coefficient. On the other hand, the anticipatory peak before Northern enlargement is less extensive. We take this pattern as a support for the anticipation mechanism detailed in our theory: the stronger the expected effects, the more anticipation occurs.

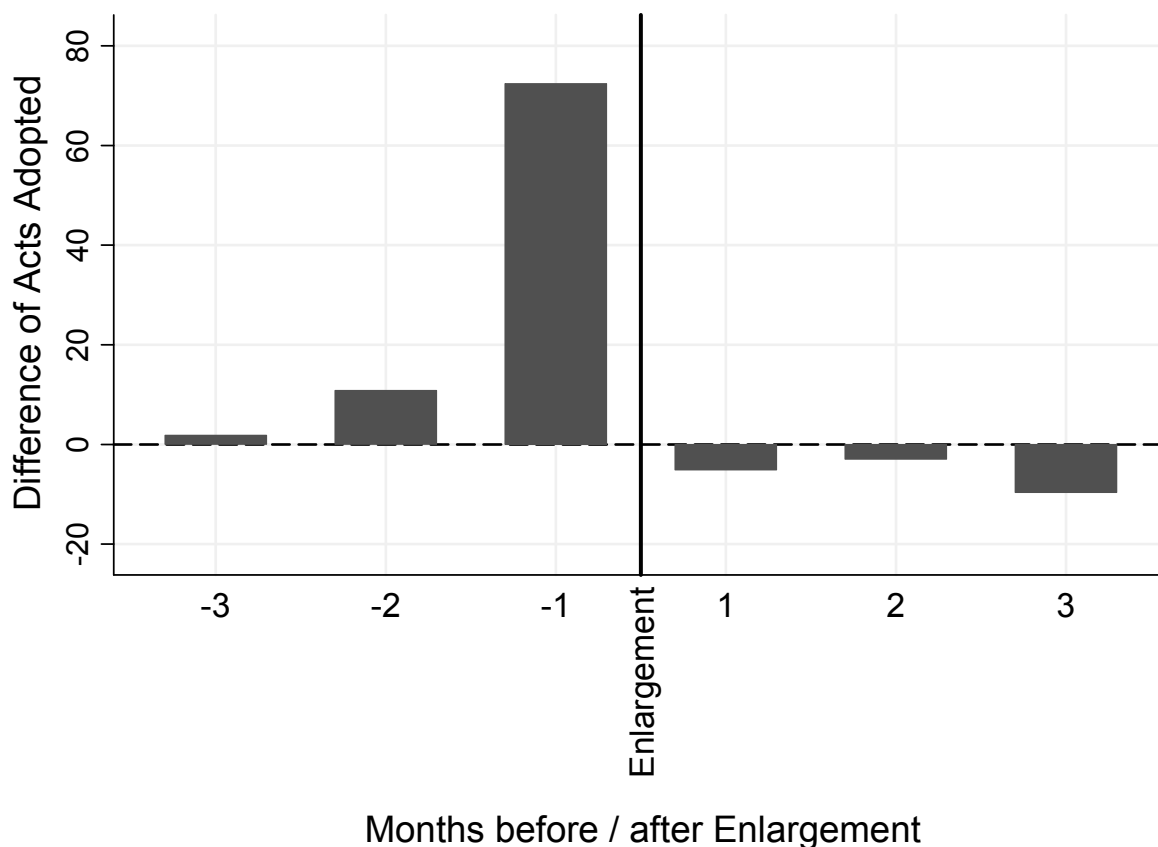


Figure 1: Average difference of legislative output as compared to pre-enlargement months

Hypothesis three postulates that anticipatory effects should occur within agricultural policy making. Model 4 confirms anticipatory effects for the 1981, the 1986 and the 1995 enlargement. We do not, however, find effects for the last two enlargement rounds. A reason for this finding might be the general decline of agricultural legislation since the mid 1990, displayed by Figure 2. This figure, however, also points towards the possible existence of other anticipatory effects within the agricultural sector. From visual inspection there seem to be peaks preceding important reforms of the common agricultural policy, such as the Fontainebleau 1984 agreement, the MacSharry reforms of 1992, as well as the Agenda 2000 passed in 1999. This hypothesis, however, would demand a more detailed analysis of its own. In future analyses of legislative output in the field of agriculture, specific dynamics, triggered, for instance, by the Uruguay round of the GATT, should also be taken into account more systematically.

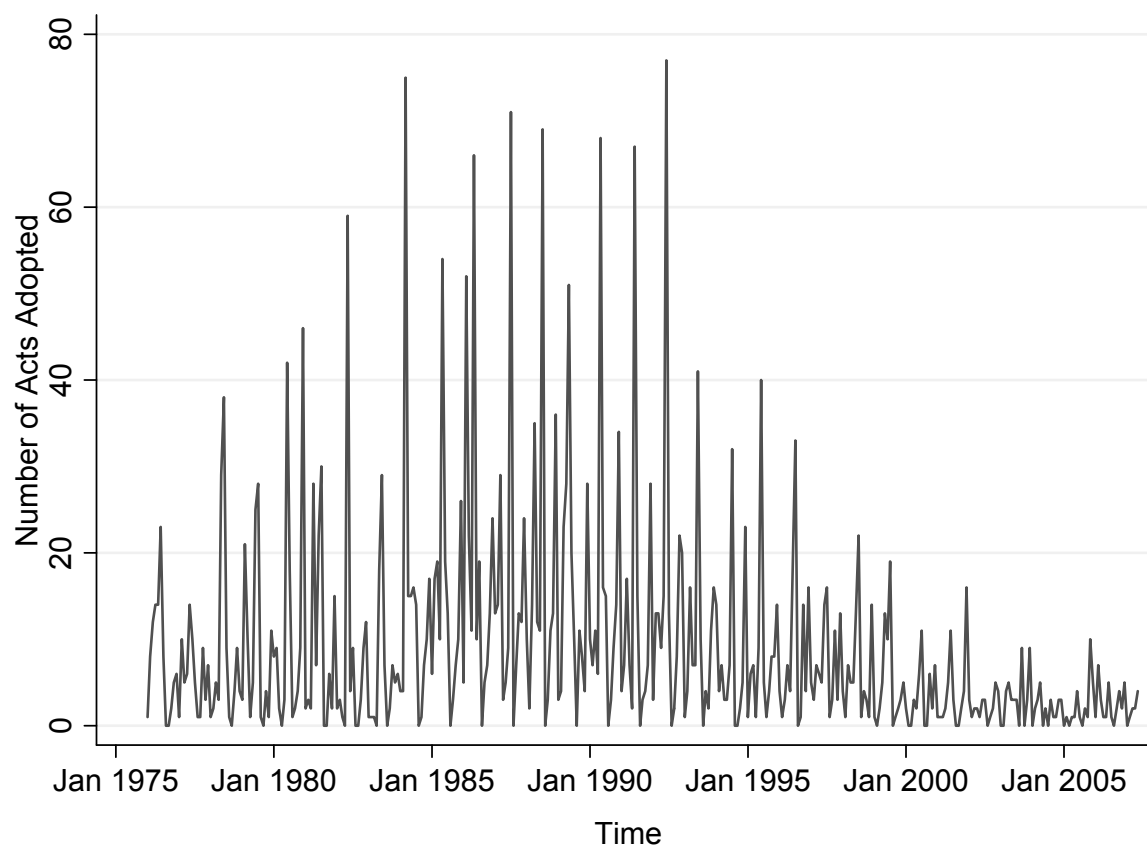


Figure 2: Number of agricultural acts adopted over time

How can we characterize the anticipation peaks that we find in our analysis? Figure 3 displays the origins of the legislative acts passed in the anticipation months (those months in which our anticipation variables were statistically significant). While agriculture seems important in the first enlargement rounds, its importance has declined in the last enlargements. The topic of fisheries plays a comparatively prominent role during the 1986, the 1995 and the 2004 enlargement. Also acts issued by DG external relations score high in the four anticipation months considered here. There is a dominance of only a few policy sectors during the first enlargement rounds. In later enlargement rounds the peaks do not reach the previous absolute levels. Future analyses should dig deeper into dynamics at the level of different policy areas.

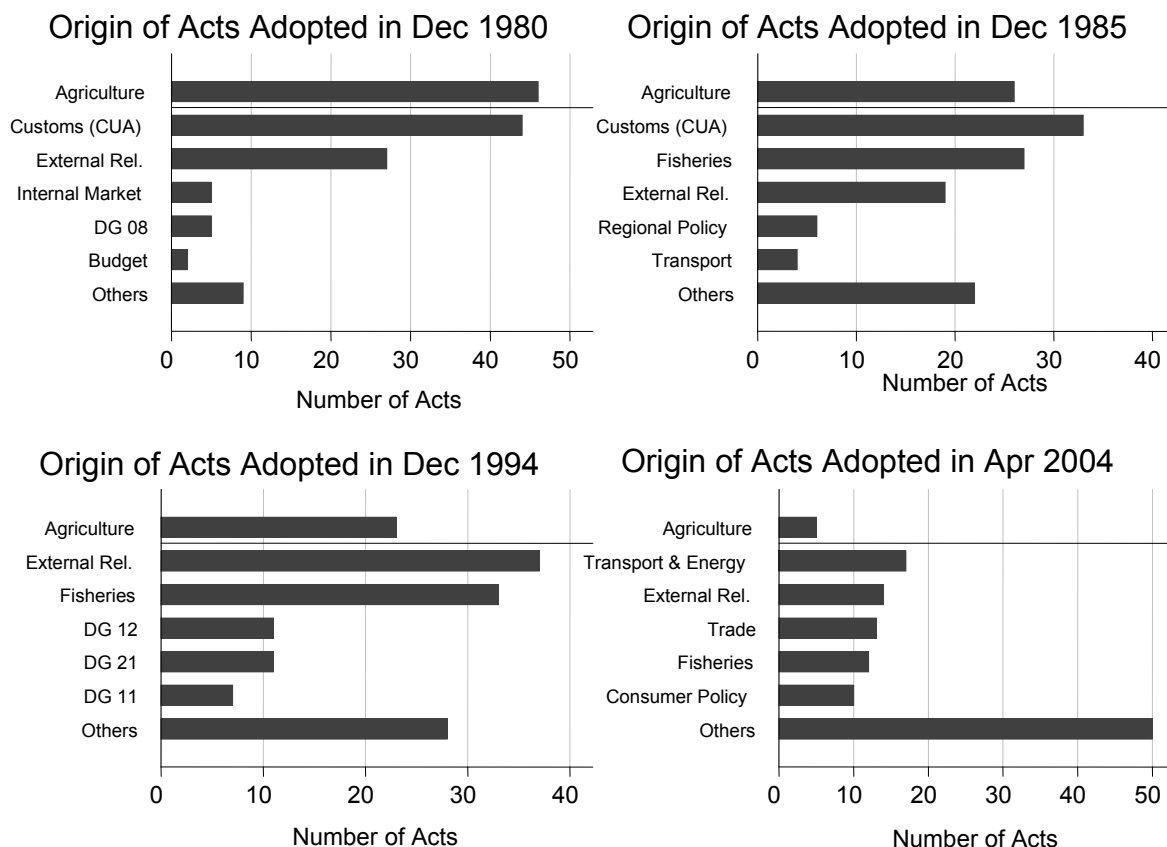


Figure 3: Origin of acts by Directorate-General (DG)

Finally, we inspected the length of time that the acts that were passed during the anticipation months had spent in the legislative process. In particular, we ran an event history model to find out whether the acts passed during the anticipation month varied in terms of their duration from the rest of the sample (cf. Box-Steffensmeier & Jones 2004; König 2008; Golub 1999, 2008). While the acts of the first three enlargement rounds covered in our analysis stayed in the legislative process for a shorter duration than normally is the case, longer acts were passed in the last two enlargement rounds. Thus no clear pattern in terms of the duration of the acts emerged.

Conclusion

In this paper, we analyze anticipation effects of enlargement on EU legislative politics. After a general introduction of anticipation in policy making we derive a set of hypotheses on EU enlargement effects. Our theory suggests that incumbent member states fear the costs of

enlargement. They calculate whether they are better off by passing a piece of legislation before or after the accession of new member states. We find that enlargement, indeed, sets incentives for gearing up the legislative process. The empirical analysis shows that legislative output increases before the accession of new member states. Additionally, we find some evidence for lower legislative output in the time period after the accession of new member states. This underlines that we should be careful when quickly attributing a reduced legislative output to the behavior of new member states. The decline after the accession of new members might not be a sign for increased gridlock, that is, the inability to make decisions, but could rather be the effect of legislative tides.

Interestingly, our ‘Members’ variable does not support the gridlock scenario of post enlargement effects. Does that mean that the actors misinterpret the situation? Or put differently, why should they adopt more acts before enlargement if there are no changes due to an increase in group size? The evidence for anticipation presented here could hint at qualitative changes, rather than quantitative changes, after enlargement. Thus enlargement might change policy outcomes qualitatively, for instance, towards the status quo or away from the old member states’ preferences. To take up Downs et al.’s (1996: 382) image, old member states might fear that the EU ‘orchestra’ reacts to enlargement by playing less demanding or different pieces in future.

Here, we have only focused on anticipation in the context of enlargement. Future research could address treaty changes or other institutional changes. For example, it seems that the EU actors have anticipated agricultural reforms. This also underlines the importance of moving from total legislation to policy area output. Additionally, future research should aim at getting a better understanding of the interactions between the different EU institutions. For example, do the Commission and the European Parliament cooperate with the member states in the Council when it comes to anticipating a future event? Finally, the importance of uncertainty should be addressed with more precision than was possible in this paper. Uncertainty seems an important key to understanding anticipation and its scope of application.

Anticipation clearly adds to our understanding of EU legislative output over time. In particular, it seems an important factor accounting for short-term dynamics of the legislative process. It should therefore be added to models of the EU legislative process, as well as of legislative output more generally. To conclude, it must be mentioned that in the ‘Restaurant at the End of the Universe’ the anticipation capacities of the elevators lead to confusion and

ultimately to a standstill. This, so far, is not the case in the EU. Here anticipation is just one of these subtle things that shape the way the Union works.

Notes

1. This article has been published in the *European Journal of Political Research* 2010 Vol. 49: 53-74.
2. Psychologists have also taken great interest in analyzing the formation of expectations and their consequences for future behavior – attribution theory being one example (Martinko 1995:8).
3. Here, policy stability means the impossibility of significant departures from the status quo (Tsebelis 2002).
4. Similar to policy stability, gridlock refers to the absence of policy change or the inability of changing the status quo within the institutional literature (see for instance Tsebelis 2002; König et al. 2003).
5. Since the Commission should represent general Community interests covering new and old member states, it has fewer incentives to engage in such strategic anticipatory action. Therefore the input side of legislation is less concerned. But in a future step, closer cooperation between the different EU institutions could be modeled in order to derive a more complete picture of anticipation in the EU.
6. For similar output oriented approaches in American politics, see Frensdreis et al. (2001), Binder (1999) and Mayhew (1991).
7. The dataset used in this article is an early version of the European Union Legislative Output (EULO) Dataset.
8. Note that while König et al.'s (2006) dataset is obtained by combining information from CELEX and PreLEX, our dataset is solely retrieved from PreLEX. König et al.'s (2006) dataset includes 2073 decisions, 5358 regulations, and 1044 directives adopted from January 1984 to January 2003. For the same period our dataset includes 2557 decisions, 5642 regulations, and 1017 directives. Our dataset therefore contains an extra 741 legislative acts. These probably correspond to legislative acts dropped by König et al. (2006) when merging the CELEX and the PreLEX datasets. In this process, König et al. (2006) dropped 1357 legislative cases from PreLEX (König et al. 2006). These probably do not match our additional 741 legislative acts completely because we, in turn, have dropped all those acts for which PreLEX lacked the information on a final adoption date.
9. We tested various specifications for the ANT and ANT1981 to ANT2007 variables. Amongst other things, we included anticipatory effects that set in various months before an enlargement and that grow over time until the accession occurs. A comparison of the different model specifications with the Akaike Information Criterion (AIC) supported a specification of the anticipation variables that focused precisely on the month preceding an enlargement. This might be due to the 'stickiness' of political decision-making.
10. When run on the dataset which covers a time period of over 30 years, all of these models exhibit a certain degree of autocorrelation. We have tackled this problem by including lagged dependent variables with lags 6, 7, and 12. Once these lagged dependent variables have been included, the models no longer exhibit signs of autocorrelation. As lagged dependent variables within a negative binomial regression

model make interpreting the results fairly difficult, we refrain from presenting these models here. As their results are, however, identical to the results of the models presented in the paper, we restrict our analysis to the simpler models without lagged dependent variables.

11. The empirical results have been estimated using STATA 10.1 and its *nbrreg* algorithm with the *robust* option.
12. The coefficient of the constant included within the three negative binomial regression models is the log of the expected count, i.e., the number of acts adopted, when all independent variables are evaluated at zero. For example, the constant of Model 2 is 2.31 and corresponds to around 10 legislative acts being adopted if all independent variables take a value of zero (i.e., before the SEA came into force, not in a month directly preceding an enlargement, without acts being submitted by the Commission). Of course, the interpretation of this constant is only of limited value, as the real minimum value for the Members variable is six. The constant therefore has no natural interpretation.
13. When using January as a baseline month, all months with the exception of September have significant coefficients. These indicate that the EU adopts most acts in June, July, and December, while a very low amount of acts are adopted during the summer holidays in August.

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Too Big to Run? Analyzing the impact of enlargement on the speed of EU decision-making

by

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and

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Abstract

This article analyzes the impact of enlargements on the speed of European Union (EU) decision-making. Most rationalist theories of policy-making predict a slowing down of EU lawmaking after enlargement. Contrasting with this, first empirical studies have claimed a speeding up of the legislative process going along with an increase of group size. In our analysis we incorporate core theoretical and methodological concerns expressed in a recent debate on how best to model the duration of EU lawmaking. By estimating a Cox regression model that incorporates time-varying covariates as well as a measure on preference heterogeneity we are able to show that enlargements actually reduce the speed of lawmaking. Our study includes all binding legislative acts submitted between January 1976 and December 2006 and thereby extends existing research.

Introduction

The European Union's (EU) Eastern enlargement has led to a growing interest about how the issue of group size affects policy-making in international organizations. Before the latest rounds of enlargement it was widely discussed how the accession of ten or twelve new member states would affect the EU in terms of capacity, legitimacy and identity. Most research today focuses on the question of how Eastern enlargement has impacted on EU decision-making. Does it change processes or outcomes? Does it encumber the search for finding solutions and are there signs of a legislative paralysis? This article contributes to this research by analyzing how enlargements have affected the speed of decision-making in general and the impact of Eastern enlargement in particular.

The duration of EU lawmaking has systematically been studied since the late 1990ies (e.g. Golub 1999; Schulz & König 2000) and the issue has received revived attention after the publication of two prominent articles by König (2007) and Golub (2007), arguably the two main contenders in this field. While König (2007) argues that the accession of countries with diverging positions should slow down the EU's legislative process, Golub (2007) finds that enlargements speed up the decision-making process. He attributes this result to coalition dynamics. König (2007) estimates a log-logistic regression on all binding legislative EU acts from 1984 to 1999. Golub (2007) relies on the well-known semi-parametric Cox model and focuses on all directives issued between 1968 and 1998. In addition, Golub (2007) includes time-varying covariates that account for changes of values of the covariates over time. In the period studied by König (2007) there are two accession rounds with five member states joining the EU, namely the Spanish and Portuguese accession of 1986 and the EFTA enlargement of Austria, Finland and Sweden in 1995. Golub's (2007) analysis covers four enlargement rounds starting with the Northern enlargement of the UK, Denmark and Ireland in 1973, the Greek accession in 1981 and the other enlargement rounds also covered by König (2007).

Our analysis expands the period under study to cover the two most recent rounds of Eastern enlargement in 2004 and 2007. For data reasons we begin our analysis in January 1976 and end in June 2009. We analyze all directives, regulations, and decisions in that time period and take up the most important theoretical and methodological concerns formulated in the follow-up debate published by *European Union Politics* (cf. Golub & Steunenberg 2007; Zorn 2007; König 2008; Golub 2008a). For instance, we include time-varying covariates into our

analysis. On the basis of a Cox model we are able to show that Eastern enlargement has in fact slowed down EU decision-making. The story is thus more complicated than initially suggested by Golub (2007). The finding that EU decision-making slows down after Eastern enlargement generally holds for all three types of legislative acts as well as for directives only.

We start off with a short review of the theory of how group size affects political decision-making in general, and in the case of the EU more particularly. We show that different theories come to the same conclusion, namely that group size negatively affects the speed of decision-making, *ceteris paribus*. In the following we review the existing empirical evidence in regards to enlargement and EU decision-making speed. In the empirical part we then reexamine the link between group-size and decision-making speed for the case of EU lawmaking drawing on existing literature on the process of EU decision-making. We estimate a Cox survival model incorporating time-varying covariates on a dataset based on PreLex and EUR-Lex. After reporting our results, we discuss our findings on group size also with respect to their time-dependent nature. Our findings thereby become more nuanced than previous analyses. We conclude by delineating paths for future research.

Group-Size and Decision-Making Speed

The topic of group-size is almost old hat in the social sciences. Early sociological research introduced this variable (Weber 1921; Michels 1959; Simmel 1950), and political science since then has taken up the topic (cf. Olson 1965; Dahl & Tufte 1973; Alesina & Spolaore 2005). EU enlargements are a fine example of an increase of group-size. As the number of member states in the EU grows over time, enlargement rounds allow studying the impact of this variable in a quasi-experimental fashion. Besides the purely academic interest, studying enlargement effects is important for practitioners and the public alike. Especially before Eastern enlargement many concerns were raised about the EU's capacity to act (cf. Zielonka 2006). Would enlargement lead to a legislative paralysis? Would it endanger a future deepening of the EU?

Different theoretical approaches are put forward by the literature on enlargement effects. The most prominent theories relating to our topic arguably are club theory, spatial theories of policy-making, the a-priori-voting power approach, coalition theories and transaction cost related theories. From the perspective of club theory (cf. Buchanan 1965; Sandler &

Tschirhart 1980; Cornes & Sandler 1996), enlargement should lead to crowding costs. Since more actors share collectively produced goods, the incentives to contribute to impure public goods should decline. This should negatively affect the provision of such goods (cf. Olson 1965; Koremenos et al. 2001). Club theory also draws our attention to distributive questions. Growing distributive conflicts between actors should make decision-making more cumbersome (cf. Zimmer et al. 2005); this is an expectation that in relation to Eastern enlargement is backed by recent findings from Thomson (2009).

Spatial theories of policy-making predict that an increase of the number and the spatial distance between actors leads to growing policy stability (Tsebelis 2002; Tsebelis & Yatağanas 2002; König & Bräuninger 2004; König 2007). A-priori voting power theory builds on early works by Penrose (1952) and Banzhaf (1965, 1966) and is based on the calculation of all possible coalitions and the fraction of coalitions within the Council that reach a qualified majority. A-priori voting power theory expects that enlargement – without any substantive changes in the voting rules – leads to shrinking passage probabilities and thus makes passing new legislation more difficult (Baldwin et al. 1997; Baldwin & Widgrén 2003, 2004). This is in line with the prediction of spatial theories.

Coalition theories are an exception in that they do not establish a negative link between group-size and decision-making output. Drawing on Hosli & van Deemen (2002), Golub (2007) argues that for the case of qualified majority voting only connected winning coalitions count. Those, however, do not decline with a growth in member states. Therefore, “enlargement should accelerate decision-making speed” (Golub 2007: 159). Golub (2007) refers to simulations by Steunenberg (2002) and Selck (2006) that deny a clear link between enlargement and legislative inertia. The question, however, remains whether this is linked to the issue of decision-making speed as argued by Golub (2007). While coalitions may form in larger communities in multi-dimensional spaces (Selck 2005; König & Junge 2009), they should still take more time to develop. The crucial point here is transaction costs. A broad research on this topic highlights that transaction costs should grow with an increasing number of actors – provided there are no institutional mechanisms that compensate for the growth in group size (cf. Coase 1960; Oye 1985; Scharpf 2006; Buchanan & Tullock 2004). The issue of transaction costs has been linked to the issue of EU decision-making speed by Schulz & König (2000: 656). They argue that bargaining over side-payments and package deals should increase the duration of the decision-making process (cf. also König 2007: 420). Relating to EU enlargements Scharpf (2006: 851) similarly argues that side payments and package deals

combining asymmetric solutions in different policy areas become increasingly difficult to manage. He therefore expects the “logic of the joint-decision trap ... [to] be stronger in the EU-25 today than it was when I wrote about the EC-12 in 1984.”

From this short review we can conclude that most theorists agree that an increase of group size, *ceteris paribus*, leads to a slowing down of decision-making. While gridlock can be overcome through side-payments or package deals (cf. Schneider 2009; König & Junge 2009; Selck 2005), such mechanisms come at the price of longer negotiations.¹ We thus expect that transaction costs lead to a reduction of decision-making speed as groups grow larger, *ceteris paribus*. In the European Union we should therefore observe longer decision-making times once new member states have entered the club.

The evidence so far

During the last decade several survival analyses have assessed the determinants of EU decision-making speed. There is no doubt that these studies have greatly improved our understanding of the process of European Union legislative decision-making. Despite the methodological debates on the coding of time-varying covariates or the application of a log-logistic versus a semi-parametric Cox-model, a common understanding exists in regards to the effects of Parliamentary involvement and the role of qualified majority voting (QMV). While QMV expedites decisions, parliamentary involvement decreases decision-making speed (Schulz & König 2000; König 2007; Golub 1999, 2007; Golub & Steunenberg 2007). These results are obtained by applying different models of survival analyses to different datasets.

A common understanding also exists in regards to the role of preference heterogeneity. Both Golub (2007) and König (2007) find that increased preference heterogeneity decreases decision-making speed. Golub (2007) assesses preference heterogeneity via maverick governments, in the form of the government under UK Prime Minister Margaret Thatcher and finds that decision-making speed decreased while Thatcher was in power. König (2007) improves on this indirect measure of heterogeneity by drawing on national party manifesto data to measure the distance between the member state governments over time. At the policy sector level, he finds that as the range between member state positions increases, EU decision-making speed slows down.

In regards to the effect of group-size, the findings diverge. König (2007) argues that decision-making speed should decrease when the accession of new member states expands the core, i.e. the policy alternatives that cannot be defeated by a winning majority. The spatial modeling literature expected just such an expansion as a result of Eastern enlargement (e.g. König & Bräuninger 2004). Golub (2007: 169) on the other hand finds that “not only did decision-making never slow down as a direct result of enlargement, but the large, positive and statistically significant coefficients for EC9, EC10, EC12 and EC15 indicate that after every single enlargement decision-making was faster than during the period when Council negotiations involved only six member states.” He concludes optimistically, that “this bodes well for decision-making speed in a Union of 25 or more states“ (Golub 2007: 169). We believe that Golub’s (2007) enlargement results strongly rely on his selection of the reference category. Golub (2007) uses lawmaking in the EC6 in the years 1968 to 1972 as a reference category. The duration of lawmaking in this period is, however, strongly driven by the two years 1969 and 1970. In these two years the median survival time of directives in days augments to almost 2100 and 1600 days, respectively, as highlighted by Golub (2007: 167). This is almost double the amount of time taken in 1968, 1971 and 1972 as well as for the rest of the period for which data is available. The exceptionally high duration of lawmaking in the two years of 1969 and 1970 might be an effect of De Gaulle’s *fin de règne*. The empty chair crisis and the resulting Luxembourg compromise are often argued to have frustrated decision-makers in Europe (Dinan 1999). Whatever the precise reasons for the slow decision-making process of this period may be, the period seems hardly representative and we find that the lack of speed in these years should not primarily be attributed to the issue of group-size.

Additionally, to us Golub’s (2007) findings on enlargement seem less straight forward than initially suggested by the author. Golub (2007) compares the effects of different enlargement rounds to his baseline category but doesn’t assess how EU decision-making speed changed from one enlargement round to the other. Table 1 presents the relevant findings from Golub’s (2007) Table 3.

Variable	Coefficient
EU9	0.496***
EU10	0.457*
EU12	0.659**
EU15	0.571**

Notes: *** p < .01, * p < .10.

Table 1: Golub’s (2007) Results

The coefficient of EU15, for instance, is smaller than the coefficient of EU12, indicating that decision-making speed slowed down after the accession of Austria, Sweden, and Finland in 1995. The pattern is similar when moving from the EC9 to the EC10. We therefore find that these results demand a slight re-evaluation.

Taking up Golub's (2008a) recommendation that future research should amongst other things strive to isolate more carefully the effects of rules, preferences and enlargement, we will in the following run survival models that estimate the duration of EU lawmaking for all binding legislative acts submitted after January 1976 and up to after Eastern enlargement in order to get a better understanding of enlargement effects. Our analysis thus complements Golub's (2007) and König's (2007) studies with a particular focus on the issue of group size.

The case of Eastern Enlargement

Over the past years, abundant literature about the impact of Eastern enlargement on EU decision-making has emerged (e.g. Dehousse et al. 2007; Best & Settembri 2008; Mattila 2009; Hagemann & De Clerck-Sachsse 2007; Hertz & Leuffen 2008, 2010; for a summary see Pollack 2009). Most of this literature has, however, not focused on the speed by which decisions are made, and the survival analyses conducted by Golub (2007) and König (2007) do not cover Eastern enlargement. Best & Settembri (2008) are an exception. They compare decision-making speed before and after Eastern enlargement with descriptive statistics. Best & Settembri (2008) focus on the period January 2003 to December 2003 and July 2005 to June 2006. They generally find that "enlargement has not entailed a slower decision-making process: on the contrary, the adoption is, on average, more expeditious." (Best & Settembri 2008: 44). Their findings are thus in accordance with Golub's (2007) analysis. The literature therefore still lacks a thorough empirical analysis of decision-making speed after Eastern enlargement. Focusing on all three types of legislative acts, and using the methodology applied by Golub (2007) and Golub & Steunenberg (2007) we show that enlargement rounds have had an adverse effect on the speed by which the Union makes decisions. Especially Eastern enlargement in 2004 has decreased the speed by which decisions are made.

Methods and Data

Our analysis examines the impact of group size on the duration of lawmaking in the EU. Figure 1 illustrates the median number of days legislative acts remained within the decision-

making process from 1976 to 2009 for all three types of binding legislative acts (directives, regulations, and decisions) and for directives only. The graphs illustrate that median decision-times of all binding instruments have increased from the mid 1980s to today, while the duration of directives have more or less stayed the same. Despite the increase in decision-making time since the mid 1980s, median decision-times for directives are still far longer than those reported for all legislative acts. It takes more than 500 days to adopt a directive, while the median adoption times for all legislative acts are less than 200 days. Figure 2 plots the frequency of the duration of all acts that are passed in less than 2000 days. The graph highlights that most acts are passed in less than 500 days and thus illustrates that directives are in a clear minority when it comes to the volume of acts adopted. Most acts adopted in Brussels are adopted fairly quickly.

In our analysis we cover all three types of binding EU legislative instruments. Regulations are binding in entirety and directly applicable in all member states, directives leave to national authorities the choice of form and methods. Decisions apply to a subset of member states and are thus less prone to conflict. We find that while directives may still be the most “significant and contentious laws” (Golub 2007: 106), König (2008: 149) makes some valid points on why regulations and decisions should not be neglected in an analysis of EU decision-making time. In particular, the fact that some policy areas such as fisheries heavily rely on regulations underlines the importance of analyzing the speed of passing regulations. Our results, in addition, show that in terms of covariates influencing decision-making speed, directives are not much different from regulations and decisions.

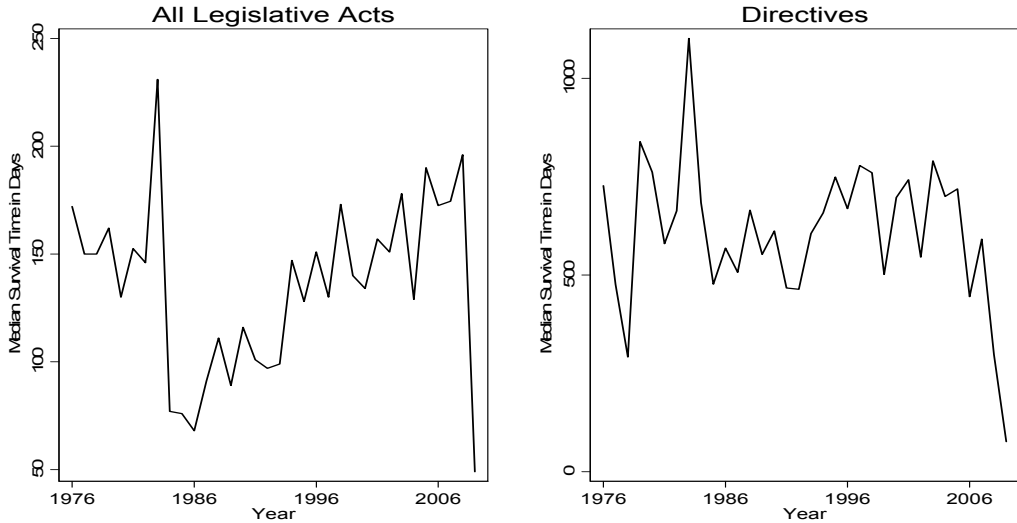


Figure 1: Median Survival Times in Days 1976-2009. The sharp drop at the right sides of the graphs is due to right-side censoring.

When analyzing durations, event history analysis is the appropriate method (cf. Box-Steffensmeier & Jones 2004; Golub 2008b). The unit of analysis is one legislative act. Following Golub's (2008a) advice we opt for implementing the well-known Cox model and include time-varying covariates. This means that we record a change in the explanatory variables whenever changes occur during the lifespan of a legislative act. For instance, the proposal for regulation COM (1993) 441 – 3 amending regulation No.805/68 on the common organization of the market in beef and veal was adopted by the Commission on 22 September 1993. The Council formally adopted the regulation two years and seven months later, on 29 April 1996. While the Union had 12 members when the Commission submitted the proposal to the EU decision-making processes, three countries acceded in January 1995 before the regulation was adopted. In this case we have to add an additional observation which is identical to the original observation containing information on COM (1993) 441 – 3 but differs in the group-size variables, the observation period, and the event by which the observation period ends. Methodologically we, therefore, strongly draw on the important suggestions formulated in recent research on the topic (cf. Golub & Steunenberg 2007; Golub 2007, 2008a; König 2008; Zorn 2007).

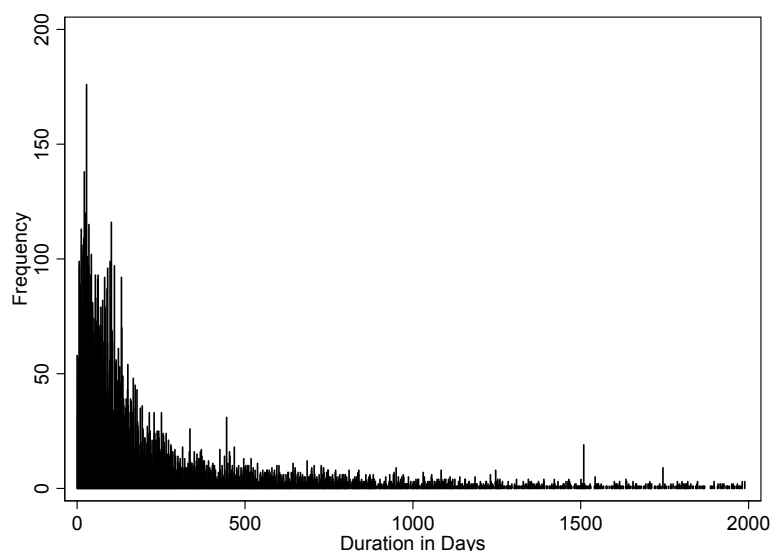


Figure 2: Distribution of Duration

Our key explanatory variables are dummy variables for the different group sizes of the EU. EC9 is our reference category to which we compare the effects of the EC10, EC12, EU15, EU25 and EU27. These variables are one whenever an act is discussed with the appropriate number of members, and zero otherwise. We also performed our analyses using a continuous

variable MEMBERS that ranges from 9 to 27. The results are robust, but since the dummy variables allow us to draw a more nuanced picture the results of this variable are not reported here.²

Based on existing research we incorporate the following control variables into our model. QMV, QMVPOSTSEA, QMVPOSTTEU, QMVPOSTAMS, and QMVPOSTNICE measure whether an act falls under qualified majority voting, accounting for the subsequent Treaty changes. In line with Golub (2007), the QMV variable is one whenever an act was adopted by QMV rule and discussed prior to the coming into force of the Single European Act on 1 July 1987 and zero otherwise. QMVPOSTSEA is one whenever an act was adopted by QMV and adopted after the coming into force of the SEA but before the coming into force of the Maastricht Treaty. The reference category for all QMV variables is unanimity. In line with the literature, we expect QMV to speed up decision-making (Golub 1999: 743; Schulz & König 2000: 657).

The literature broadly agrees on the role of the European Parliament. The more powers the European Parliament gains, the slower decision-making should become (Golub 1999: 744; Schulz & König 2000: 657). Therefore we include the dummies COOPERATION and CODECISION for the two respective procedures. These are one whenever an act was adopted by one of the two procedures and zero otherwise.

Following Golub (1999, 2007) we control for backlog. The variable BACKLOG records the number of proposals made in the same year plus the cumulative backlog from the previous years. The idea behind this variable is that mounting policy pressure should significantly affect EU policy-making speed (Golub 1999: 744).

Schulz & König (2000: 658) formulate a compelling argument on why directives should take longer to be passed than regulations and decision. They argue that directives often involve substantial distributional consequences. Furthermore they require a change in domestic law. This should lead to possible implementation concerns that prolong the process. We therefore control for the slowing down effect of directives by a dummy variable DIRECTIVE, which equals one for directives and zero for regulations and decisions.

Finally, we control for preference heterogeneity. In our analysis we test two different measures of heterogeneity that draw on the suggestions formulated by König (2007) and Golub (2007). Golub (2007) captures heterogeneity with a dummy variable that accounts for

Margaret Thatcher's time as the UK's prime minister. The 'iron lady' is often argued to have made EC decision-making more cumbersome. Golub (2007: 159) links this to the issue of left-right divergence in the Council. Our estimations confirm the finding that THATCHER has a negative impact on the speed of lawmaking. We do not report our findings relating to this variable in this article – the variable does not change the effect of our key explanatory variables on group size – but take up Golub's idea on the importance of left-right dispersion in the Council and link it to the type of preference measure introduced by König (2007). While König (2007) introduces a preference measure that captures the range of EU integration positions in the Council based on party manifesto data, we opted for taking up manifesto data focusing on the range of left-right positions. Figure 3 illustrates how preference constellations have changed on the left-right dimensions over time.

The reason for choosing left-right is that we analyze day-to-day EU decision-making and not integration *per se*. The importance of the left-right dimension in EU policy-making is increasingly underlined by the literature (cf. Hix 2008; Hagemann 2008). We use the data presented by Klingemann et al. (2006) and complete it on the basis of own calculations for the period up to December 2006. We use the latest available data for each party and then include its weighted share for each newly formed government for all member states. Because of possible changes in the party manifestos we only opted for continuing this data set until the end of 2006, in order to get an idea about the effects of the first round of Eastern enlargement. On the basis of all government positions in the Council we then calculate the LEFTRIGHT variable by the range. We use the party manifesto data since this data covers almost the entire period that we analyze. Also, in terms of the timing, it is more fine-tuned than the corresponding survey expert data.³ The LEFTRIGHT variable allows us to control for changes in the preference constellation in the Council more carefully than the slightly brute THATCHER variable. It changes a lot more frequently over time and we model it as a time-varying covariate in our analysis. But again, neither of the two preference variables that we use affects our main findings on group size. In a future step, it seems worthwhile to take up König's (2007) suggestion and disaggregate matters to the policy area level. We do not include Golub's (2007) variable "expanded legislative agenda" since this variable is not significant in his analysis.

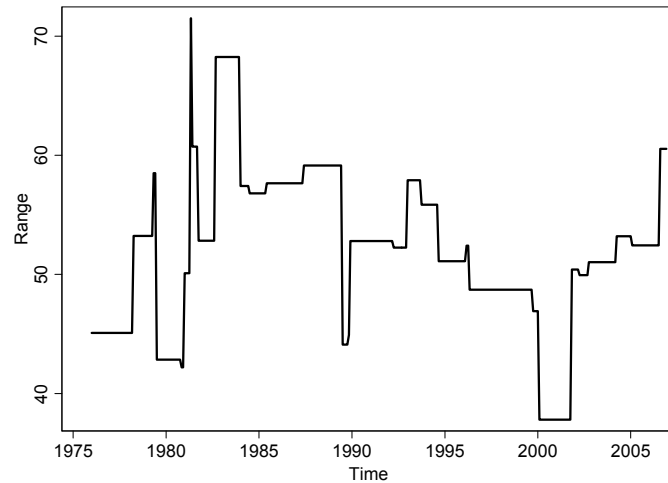


Figure 3: Distances between the two most extreme governments on the left-right dimension 1976-2006. Based on (Klingemann et al. 2006).

With the exception of the preference heterogeneity variable discussed above, we utilize the European-Union Legislative Output (EULO) dataset. The dataset is based on information provided by PreLex and EUR-Lex and consequently builds on the work by König et al. (2006). We used a Computer program to download the relevant information from PreLex and EUR-Lex. In order to obtain information on the decision-making rule (i.e. the QMV variables) and the decision-making procedure (i.e. the CODECISION and COOPERATION variables) an additional consultation of the EUR-Lex webpage, taking into consideration the legal bases of the individual acts, was necessary.⁴ This was particularly demanding for those acts for which the legislative basis changes over time since we needed the precise information for the different time periods in order to code the time-varying covariates.

The dataset covers all binding legislative acts passed since 1976 and submitted before the end of June 2009. Since our recording of the preference heterogeneity variable based on an extended version of the data provided by Klingemann et al. (2006) ends with 2006, the statistical analysis relates to the period 1976 to 2006.⁵ For this time period we have 1'871 directives, 8'440 regulations, and 4'270 decisions. In total our analysis is based on 14'581 legislative acts. After coding for time-varying covariates we have 32'784 observations. Having outlined the data and the methods, the following section presents the results.

Results

Table 2 presents the estimation results for the semi-parametric Cox model. The first column reports our results on decision-making speed for all legislative acts, the third column for

directives only. In order to obtain these results, we first estimated a set of Cox models that disregard possible non-proportional effects of the covariates. In line with Golub (2007) we then estimated a Grambsch and Therneau test for all covariates (Grambsch & Therneau 1994). In all cases in which the proportional effects assumption was violated we included time interaction effects, which allow us to estimate time-varying coefficients (Cleves et al. 2004: 166). In the case of the full sample, only the EC10 variable did not violate the proportional hazards assumption. The substantive interpretation of time-varying coefficients might not seem straightforward at first, but it should become clearer with our following examples. In our sample the mean and median decision-making times are 404 days and 119 days, respectively, when all legislative acts are taken into account. Directives have a mean and median adoption time of 938 and 586 days, respectively. In the case of time-varying effects of covariates we present the covariate effects at these two points in time if they differ substantially and only the effect at the mean decision-making time if no substantive difference is observed.

Before turning to the enlargement effects, we shortly discuss the results for the control variables, which basically conform to previous findings in the literature. As expected, qualified majority voting expedites EU decision-making. Imagine two acts that have been in the legislative process for 404 days. One of them is to be passed under QMV, the other one under unanimity. Our analysis shows that after the Nice Treaty the hazard rate for the act adopted by QMV is 73 per cent higher than for the act adopted under unanimity.⁶ It is thus more likely to be adopted before the unanimity act. The effect is stronger for directives. Here QMV acts face a 177 per cent higher hazard rate than acts adopted by unanimity. Assuming that directives are, generally, more controversial than other acts, qualified majority voting seems to be most effective in expediting those decisions, where bargains are difficult to find.

Our results furthermore support the costly tradeoff between efficiency and democratic inclusiveness. The more power the European Parliament gains, the slower decision-making becomes. At the median decision-making time, the hazard rate of acts adopted by the Cooperation (Codecision) Procedure reaches only 14 per cent (25 per cent) of the hazard rate of those acts that are not adopted under the Cooperation or Codecision Procedure. This effect levels off as acts remain within the decision-making process for a longer period of time. At the mean decision-making time, the hazard rates for acts adopted under the Cooperation (Codecision) Procedure are merely 38 per cent (23 per cent) lower than the reference category. For directives we find similar effects at the median, namely 37 per cent (21 per

cent), but quite different effects at the mean. Once directives have remained within the decision-making process for over 900 days the Cooperation Procedure no longer influences decision-making time, while the Codecision Procedure actually accelerates the process. Compared to directives which have survived within the process for over 900 days and which are not adopted by the Codecision or Cooperation Procedure, directives adopted by the Codecision Procedure face an increase in their hazard rate by 49%. This indicates that directives which are adopted without strong EP involvement and which have remained within the decision-making process for a long period of time, have run into serious troubles – making it less likely for them to finally be adopted.

The legislative backlog does not influence decision-making speed at the mean decision-making time. Only for the first 394 days of bargaining, does the legislative backlog accelerate decision-making speed. For acts which have remained within the decision-making process for over 928 days, the legislative backlog in fact decreases the likelihood of an act being adopted at a given point in time. In general, however, the impact of the legislative backlog is small. The hazard rate increases by 0.2% as the backlog increases by one legislative act after 119 days. For directives, the backlog increases decision-making during the first 454 days, while it decreases decision-making speed once an act has been discussed for over 1'164 days.

The results for the LEFTRIGHT variable, which accounts for heterogeneous preferences, are less conclusive. In fact, the analysis suggests that as the partisan preferences become more heterogeneous, decision-making time increases. This was not expected by our theory. Possibly, however, the concept of heterogeneity is not well captured by the LEFTRIGHT variable. Similar in design to König's (2007) 'Distance' variable – remember that König (2007) measures the range of EU integration positions in the Council – we also do not find the expected effect on the aggregated level of all acts passed. König's (2007) 'Distance' variable also had the wrong sign at the aggregate level. This underlines again that König's (2007) decision to include heterogeneity measures for individual policy areas is sensible. Additionally we include a variable that controls for Margaret Thatcher's reign. This variable has the expected sign, but we do not find it as satisfactory on a theoretical level. Including this variable does not, however, affect our findings on the question of group size (results are not reported here).

Variables	All Acts	s.e	Directives	s.e
QMV ¹	0.701***	(0.118)	4.122***	(0.671)
QMVPOSTSEA ¹	0.337***	(0.033)	0.954	(0.606)
QMVPOSTTEU ¹	1.757***	(0.134)	1.050	(0.741)
QMVPOSTAMS ¹	1.435***	(0.177)	2.384**	(0.907)
QMVPOSTNICE ¹	0.035	(0.217)	1.020***	(0.158)
COOPERATION ¹	-7.740***	(0.387)	-6.820***	(0.673)
CODECISION ¹	-5.871***	(0.416)	-8.881***	(0.711)
EC10 ¹	0.736***	(0.207)	0.087	(0.649)
EC12 ¹	-0.308	(0.242)	-4.234***	(0.725)
EU15 ¹	-1.394***	(0.267)	-3.476***	(0.765)
EU25 ¹	-0.449	(0.309)	-0.951***	(0.261)
BACKLOG	0.008***	(0.001)	0.015***	(0.002)
LEFTRIGHT ¹	-0.033***	(0.008)	-0.013	(0.040)
DIRECTIVE	-4.048***	(0.223)		
QMV*ln(t)	0.000	(0.026)	-0.680***	(0.126)
QMVPOSTSEA*ln(t)			-0.074	(0.101)
QMVPOSTTEU*ln(t)	-0.299***	(0.029)	-0.171	(0.120)
QMVPOSTAMS*ln(t)	-0.237***	(0.038)	-0.419**	(0.153)
QMVPOSTNICE*ln(t)	0.086*	(0.043)		
COOPERATION*ln(t)	1.211***	(0.067)	0.997***	(0.109)
CODECISION*ln(t)	0.935***	(0.072)	1.356***	(0.115)
EC10*ln(t)	-0.306***	(0.045)	-0.322**	(0.114)
EC12*ln(t)	0.009	(0.052)	0.626***	(0.117)
EC15*ln(t)	0.204***	(0.056)	0.508***	(0.126)
EC25*ln(t)	-0.021	(0.064)		
BACKLOG*ln(t)	-0.001***	(0.000)	-0.002***	(0.000)
LEFTRIGHT*ln(t)	0.010***	(0.002)	0.009	(0.007)
DIRECTIVE*ln(t)	0.615***	(0.039)		
n	14'581		1'871	
Decision-Days	5'894'710		1'755'180	
Log-Likelihood	-104'212		-7'497	

Notes: Data are right-censored on 31 December 2006; * $p < 0.05$, ** $p < 0.01$, *** $p < 0.001$, standard errors in parentheses; ¹ Time Varying Covariate

Table 2: Cox Model Results

Finally, decisions and regulations are passed more quickly than directives. After 119 days, the hazard rate is 67% lower for directives than for regulations and decisions. As time passes the difference between the instruments diminishes. After 404 days, the hazard rate is merely 30% lower. Once 868 days have passed the effect in fact turns around and after an act has been discussed for 1'000 days, the hazard rate for directives is 23% higher than that of regulations and decisions. This indicates that regulations and decisions, which have remained within the

decision-making process for a long period of time, have run into serious troubles, making it less likely for them to be adopted than directives, for which it is not unusual that the process takes 1'000 days.

We will now turn to the issue of group size. Our Cox model estimations show that Golub's (2007) optimism was unjustified. Eastern enlargement has in fact slowed down EU decision-making. Table 3 illustrates the time-varying coefficients for all enlargement rounds. The top half of the table presents the estimation results when all legal instruments are taken into consideration. The lower half shows the results obtained for directives only.

	Time in Days									
	100	200	300	400	500	600	700	800	900	1000
All Legislative Acts										
EC10	-0.672** (0.056)	-0.884** (0.068)	-1.008** (0.080)	-1.096** (0.090)	-1.164** (0.098)	-1.220** (0.105)	-1.267** (0.111)	-1.308** (0.116)	-1.344** (0.121)	-1.376** (0.125)
EC12	-0.265** (0.068)	-0.258** (0.080)	-0.254** (0.093)	-0.252* (0.104)	-0.250* (0.113)	-0.248* (0.120)	-0.247 (0.127)	-0.245 (0.133)	-0.244 (0.138)	-0.243 (0.143)
EU15	-0.455** (0.072)	-0.313** (0.083)	-0.231* (0.097)	-0.172 (0.108)	-0.126 (0.118)	-0.089 (0.126)	-0.058 (0.133)	-0.031 (0.140)	-0.006 (0.146)	0.014 (0.151)
EU25	-0.543** (0.083)	-0.557** (0.094)	-0.565** (0.108)	-0.571** (0.120)	-0.576** (0.131)	-0.579** (0.140)	-0.583** (0.148)	-0.585** (0.156)	-0.588** (0.162)	-0.590** (0.168)
Directives										
EC10	-1.396** (0.228)	-1.619** (0.209)	-1.750** (0.212)	-1.843** (0.219)	-1.915** (0.228)	-1.973** (0.238)	-2.023** (0.246)	-2.066** (0.255)	-2.104** (0.263)	-2.138** (0.270)
EC12	-1.353** (0.273)	-0.919** (0.238)	-0.666** (0.229)	-0.486* (0.229)	-0.346 (0.232)	-0.232 (0.236)	-0.135 (0.241)	-0.052 (0.247)	0.021 (0.252)	0.087 (0.258)
EU15	-1.135** (0.275)	-0.782** (0.240)	-0.576* (0.232)	-0.430 (0.233)	-0.317 (0.238)	-0.224 (0.244)	-0.146 (0.251)	-0.078 (0.258)	-0.018 (0.265)	0.034 (0.272)
EU25 ¹	-0.950** (0.261)	-0.950** (0.261)	-0.950** (0.261)	-0.950** (0.261)	-0.950** (0.261)	-0.950** (0.261)	-0.950** (0.261)	-0.950** (0.261)	-0.950** (0.261)	-0.950** (0.261)

Notes: * $p < 0.05$, ** $p < 0.01$, standard errors in parentheses

¹ Time Invariant Coefficient

Table 3: Time-Varying Effects of Enlargement Rounds

At the median decision-making time, the hazard rate faced by acts adopted after the enlargements in 1981 (EC10), 1986 (EU12), 1995 (EU15), and 2004 (EU25) is only 48%, 77%, 67%, and 58% of the hazard rate faced by acts adopted under the EC9, respectively. With the exception of the 1986 enlargement, after which decision-making speed increased compared to the EC10, decision-making speed has slowed down with every subsequent enlargement round. These results also hold for the mean, although the impact of the Northern enlargement in 1995 becomes insignificant. Table 3 illustrates that especially the accession of Spain and Portugal, and the accession of Austria, Finland, and Sweden impacted on the early stages of the decision-making process. The impact of the 1986 enlargement turns insignificant after 665 days, and that of the 1995 enlargement already after 345 days. Thus really difficult cases, which needed more time to adoption, were not affected by these two enlargement rounds at later stages of the decision-making process. Eastern enlargement on the other hand, seems to have impacted all stages of the decision-making process. Figure 4 plots the relative

hazard of acts adopted after Eastern enlargement and after the 1995 enlargement as compared to the baseline category. It becomes clear from this figure that Eastern enlargement especially prolongs decision-making for difficult cases. As decision-days pass, the hazard rate of acts adopted after Eastern enlargement decreases. The lower, the curve, the longer are decision-making processes. Figure 4 only plots an effect if it is significant. As stated earlier, we only find a significant effect for the Northern enlargement until 345 days have passed. The curve for the Northern enlargement thus ends, when the effect turns insignificant. Comparing the relative hazard rates for the EU25 and the EU15 indicates that Eastern enlargement has slowed down decision-making once 68 decision-days have passed, that is for the bulk of legislative acts adopted in Brussels. In the graph this is visualized by the intersection of the two curves; once the hazard rate of the EU25 drops below the hazard rate of the EU15, decision-making in the EU25 is slower than decision-making in the EU15.

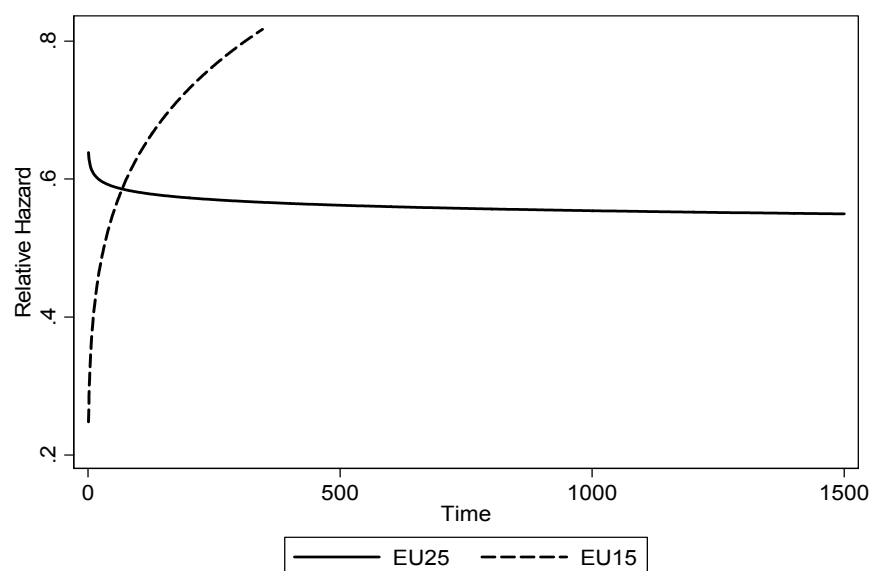


Figure 4: The Effects of Eastern Enlargement

An increase in group size and especially Eastern enlargement has therefore had a prolonging effect on day-to-day business in Brussels. Our empirical results support the theoretical expectations formulated above. Table 3 also indicates that the Greek accession has had a strong influence on EU decision-making speed. Similar to the case of Eastern enlargement, this effect increases as legislative acts remain within the decision-making process. The observed effect is extremely strong. After an act has been discussed for 800 days, the hazard rate of acts adopted under the EC10 is 73% lower than the hazard rate faced by acts adopted

under the EC9. Why do we observe such a strong effect for this enlargement, an enlargement round in which only one new member state entered the Union? A possible explanation lies in the decision-making characteristics of the pre-SEA period. It has often been argued that the Luxembourg Compromise of 1966, de facto abandoned the use of qualified majority voting, and that only the SEA firmly re-established its practice in 1987. If however, all acts are adopted by unanimity, then the impact of an additional member on decision-making speed should increase. This follows directly from the theoretical considerations of spatial and transaction theory discussed above; assuming that Greek preferences were not absorbed by the preference constellations of the EC9. Our findings on the impact of QMV in the pre-SEA period, however, speak against such an interpretation. Like Golub (2007), we find that QMV has also speeded up decisions before the Single European Act came into force, questioning the frequently assumed impact of the Luxembourg Compromise. A possible solution is the outlier year of 1983, as highlighted by Figure 1. In this year the duration of lawmaking clearly exceeds the duration in the surrounding years and this holds especially for directives. Whether this is due to Mitterrand's economic policy shift or to Thatcher's bargaining strategy preceding the British rebate obtained in 1984 at Fontainebleau cannot be solved here. The results call for a more in-depth analysis of these circumstances in form of case studies in the future.

The findings for directives are not much different to those presented for all types of binding legislative acts. The impact of the Southern enlargement in 1986 and the Northern enlargement in 1995 is restricted to the early stages of the decision-making process, while the Greek and Eastern enlargement rounds have affected the entire decision-making process. Contrary to Golub (2007) we do not find that enlargements expedite the adoption of directives, although one could argue that decision-making speed increased after the Southern and Northern enlargements when compared to the EC10. Compared to the EU15, and the baseline category EU9, Eastern enlargement has, however, undoubtedly decreased the pace by which directives are adopted. As already stated above, the results for the EU27 are similar to the ones of the EU25. Our results support the considerations made in the theoretical part of this paper. An increase of the number of member states does not expedite decision-making in the EU.

Conclusion

This article contributes to the debate on the determinants of the duration of lawmaking in the European Union. Drawing on recent major improvements in the literature on this topic, we extend the scope of analysis to include the most recent enlargement rounds and the Amsterdam and Nice treaty reform changes. We analyze the factors influencing the speed of passing directives, regulations and decisions and, for the first time, we include time-varying covariates for all three types of legislative instruments. In line with much of the previous literature we find that QMV expedites decision-making while EP involvement slows down the decision-making process. We can also confirm that directives spend more time in the decision-making process than regulations and decisions but find additionally, that this effect diminishes as time passes and in fact reverses when regulations and decisions are being negotiated over a very long period of time.

Our main concern is the issue of group size. In this article we show that the relation between group size and speed of decision-making is not as straightforward as suggested by Golub (2007). While Golub (2007) detects an increase in the speed of lawmaking accompanying an increase of the number of member states and attributes this finding to coalition dynamics, we find that more member states actually slow down decision-making. This is especially true for Eastern enlargement and holds for all types of legislative acts as well as for directives only. These results are in line with our theoretical expectations. As outlined in the theoretical argument, finding solutions between growing numbers of member states might not be impossible, but comes at the price of growing transaction costs. This prolongs the decision-making process. To us, the main reason for Golub's (2007) counterintuitive finding on the effect of group-size relates to his choice of reference category.

When comparing our Cox-model based findings to the results by König (2007), who implemented a log-logistic regression without time-varying covariates, we find no major differences. This ensures us that the results are robust since different methods come to similar conclusions. At the same time, our method allowed us to formulate more nuanced assessments.

Future research should focus stronger on the issue of preferences. So far, our measurement of preferences is far from perfect. To our surprise – but in line with König's (2007) finding on the EU integration dimension – the range of left-right dispersion in the Council does not seem to be a strong indicator of conflict. For data reasons we have not been able to follow König's

(2007) path of disaggregation into policy areas but this, to us, certainly seems the way forward.

Notes

1. So far, there is little information about a growing status quo bias that might also explain a continuous legislative output. Hertz & Leuffen (2010) have discussed such an issue on the basis of an extended version of the decision-making in the European Union dataset (Thomson et al. 2006). Similarly, the findings by Thomson (2009) point towards the possibility of more conservative Commission proposals.
2. The results relating to the MEMBERS variable will be provided by the authors upon request.
3. We also tested a control for A- and B-points. As expected by König (2008), B-points take longer to be passed. This variable also did not affect our findings on group size and we therefore do not report the detailed results here.
4. In addition, Jan Biesenbender from the University of Konstanz, Germany, generously allowed us to consult his useful database that records the voting rules for the different EC and EU treaty articles over time.
5. The reports for the time period after the Bulgarian and Romanian enlargement are not reported here, because of the heterogeneity variable. But controlling for the THATCHER variable we also find that the latest round of enlargement has slowed down the decision-making process.
6. The time-varying coefficient is calculated by using the formulas provided by Golub & Steunenberg (2007). If not noted otherwise, the effects are statistically significant at a 95% significance level.

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A Procedural Compromise Model of EU Decision-Making

by

Robin Hertz

Abstract

This article presents a Procedural Compromise Model of European Union (EU) decision-making. Although the Compromise Model by Van den Bos (1991) does not model EU decision-making specifically, it has outperformed all other models of the EU decision-making process within the empirical application of Thomson et al. (2006). By combining procedural elements of the EU decision-making process with the abstract notion of cooperative decision-making by the Compromise Model, I show that the procedural models', as well as the Compromise Model's predictions, can be improved upon. For comparability reasons, I utilize the Decision-making in the European Union (DEU) dataset presented by Thomson et al. (2006) in the empirical part of the article.

Introduction

European Union decision-making is marked by a remarkable level of cooperation. Member states with heterogeneous preferences tend to make consensual decisions on a large number of issues discussed in Brussels. This is a well accepted observation made by a variety of studies using different approaches (e.g. Hayes-Renshaw et al. 2006; Hayes-Renshaw & Wallace 2006; Wallace et al. 2005; Mattila & Lane 2001). Over the past decades a variety of formal EU decision-making models have emerged. Models based on cooperative game theory tend to incorporate the struggle for consensus via the Nash-bargaining solution (e.g. Compromise Model, Van den Bos 1991; Achen 2006b). While these models focus on the cooperative aspects of the bargaining stage of EU decision-making, they refrain from explicitly modeling the decision-making process. Procedural models in contrast focus on the legal framework by which decisions are made (e.g. Crombez 1996; Steunenberg & Selck 2006). These models are based on un-cooperative game theory and formulate extensive form games. Although they take into account the individual steps of the political process, they neglect the cooperative aspects of EU decision-making.

Based on the many accounts of Council bargaining and the unison finding that decision-making is based on cooperative action, I present a Procedural Compromise Model (PCM). Like many of the formal models presented in *The European Union Decides* (Thomson et al. 2006), the model tries to capture the process by which decisions are made and makes forecasts on the outcomes of the political process at the EU level. The model combines procedural elements of the decision-making process with the cooperative type of bargaining assumed by the Compromise Model, which approximates the ideas developed by institutional realism (Achen 2006b). In doing so, the Procedural Compromise Model spells out a process by which the Compromise Model's predictions can be generated and incorporates this process into the procedural setting of EU decision-making.

Empirically, the Procedural Compromise Model is tested on the pre-Eastern enlargement dataset of the DEU project.¹ This unique dataset on EU decision-making is a rich source of information on preferences, salience, and voting powers of the actors involved in the process on over 170 controversial issues discussed in Brussels. By utilizing this dataset, the model can be tested against standard procedural models (Steunenberg & Selck 2006) and the Compromise Model (Arregui et al. 2006). The Procedural Compromise Model is able to improve on both the procedural models predictions as well as the Compromise Model forecast

– yielding support for combining elements of the procedural process with the consensual style of decision-making observed in Council negotiations.

The remainder of the paper is organized as follows. The second part discusses the strengths and weaknesses of existing formal models of EU decision-making. The third part revisits the Compromise Model in a procedural context, describing the process by which the Compromise Model's predictions can be derived in the context of EU decision-making procedures. In the fourth section, the Procedural Compromise Model is spelled out. The fifth section introduces the dataset and compares the PCM with procedural models and the Compromise Model empirically. Finally, the merits and shortcomings of the model are discussed in the conclusion.

Formal Models of EU Decision-Making

Scholars of political science have identified two stages of policy making: the bargaining and the voting stage (e.g. Van den Bos 1991: 45; Achen 2006b). In the bargaining stage, actors exchange information, make promises, threats, and compromises, and try to find agreements on open questions. Headlines like “Member states dig deep to stop soil directive” (European Voice 2010) refer to this stage of the policy-making process. In the case of the soil directive, which aims at providing protection from landslides, the Spanish Presidency proposed a revised version of an initially blocked directive to the Council. Countries like Germany and the UK claim, however, that the EU has no competencies in this area. Bargaining continues. In the second stage, the institutional rules shape the process and settle disagreements through votes (Achen 2006b). Here the headlines read “Brussels clinches data retention deal” (EU Observer 2005), referring to the vote on the Data Retention Directive in 2005, which was opposed by Ireland, Slovenia, and Slovakia.

Formal models of EU decision-making are firmly rooted within rational choice institutionalism. Although they generally focus on one of the two stages of the political process, they share a common set of underlying assumptions. Utility maximizing actors are assumed to strive for their ideal policy alternative within the boundaries of the institutional setting. The actors which are commonly thought of as relevant for shaping the outcome of the legislative process are the Commission, the European Parliament (EP), and the national member states who bargain in the Council. Since the Commission and the EP vote by simple majority and there are no restrictions on amendments, both of these institutions are treated as

unitary actors represented by their median voter. The Council is assessed by all of its member states, since majorities are obtained by qualified majority. The member states are in turn assumed to act as unitary actors (e.g. Crombez 1996, 1997). In the rational-choice institutionalist approach of modeling the EU decision-making process, preferences and institutions matter. Institutions provide the context in which decision-making takes place by defining the threshold for winning majorities and selecting the relevant actors and veto players. Three types of formal models of the EU decision-making process have been distinguished (Thomson & Hosli 2006: 8). Bargaining models focus on the first, the bargaining stage of the political process. Procedural models emphasize the institutional rules and individual steps by which decisions are made – they focus on the second, the voting stage of EU decision-making. The third type of models, mixed models try to model both the bargaining and voting stage of the political process.

The set of bargaining models includes non-cooperative and cooperative game theory approaches (Schneider et al. 2006: 410). Bargaining models focus on the pre-voting stage, the stage in which a deal is made and a compromise is found. The informal process of clinching a deal lies at the heart of these models. Formal processes of voting influence the informal process but tend to play a secondary role within bargaining models of EU decision-making.² The position exchange model (Stokman & Van Oosten 1994), for instance, assumes that actors can make mutually beneficial exchanges of positions when several issues are assessed simultaneously. Bargaining over these issues occurs prior to the formulation of a compromise solution based on the changed positions. While this model is based on a cooperative approach, the challenge model of Bueno de Mesquita (1994) assumes uncooperative behavior. The Compromise Model, as presented by Van den Bos (1991), also focuses on the bargaining stage of the political process. It assumes that all actors' positions are taken into account when a decision is made. Each actor influences the final outcome in relation to his power and his salience on the political issue discussed. The model is thus cooperative in nature and builds on the assumption that member states are

well aware of the capabilities of others and the consequences of blocked decision making and, therefore, in the end have often come to accept compromise proposals put forward by the Presidency of the Council, usually in collaboration with the Commission. (Van den Bos 1991: 176)

The Compromise model's policy prediction is calculated by the weighted mean of the relevant actor's preferences, weights being salience and power. If s_i is salience, v_i power, and x_i^* the preferred policy alternative of actor i , then the resulting outcome o as predicted by the Compromise model is defined by the following simple equation:

$$o = \frac{\sum_{i=1}^N s_i v_i x_i^*}{\sum_{i=1}^N s_i v_i} \quad (1)$$

By assuming the disagreement outcome to be highly undesirable, Achen (2006b) has shown the Compromise Model to be an approximation of the Nash bargaining solution. Achen (2006b) grounded the Compromise Model in the institutional realism tradition (Banfield 1961; Coleman 1990), according to which institutions are viewed as congealed tastes of the powerful actors (Riker 1980) and the intensity by which values are held is as important as power (e.g. Banfield 1961). In empirical applications of formal models, the Compromise model tends to outperform other and often more complex models of EU decision-making (Thomson et al. 2006).

The second type of models focuses on the formal procedural steps of the decision-making process. They are preoccupied with the voting stage of the political process. Procedural models have predominantly used extensive form games to analyze the formal rules by which decisions are made. They are thus based on non-cooperative game theory in which all actors maximize their utility at every step of the game. Several different procedures laid out in the Treaties of the European Union have been distinguished and analyzed by the procedural approach. Two procedures dominate the day-by-day business of the EU institutions: the simple Consultation Procedure and the more complex Codecision Procedure. The two procedures differ in respect to the powers granted to the European Parliament. In the Consultation Procedure, the Council is obliged to consult the Parliament, which provides a non-binding opinion. Formal models of the Consultation Procedure tend to disregard the role of Parliament (e.g. Steunenberg 1994; Crombez 1996; König & Proksch 2006). An exception is provided by Varela (2009), who analyzes the power of the Parliament on the final outcome. Due to the simplicity of the Consultation Procedure, the scholarly debate has centered on the more complex Cooperation and Codecision Procedures. In the Codecision Procedure and especially since it was amended by the Amsterdam Treaty in 1999, Parliament is regarded as an equal co-legislator with the Council. The Commission's role within the Codecision

Procedure is disputed. While in several models of the Codecision Procedure, the Commission's initial proposal becomes irrelevant, since the Council and the European Parliament can adopt any decision in the Conciliation Committee without the assent of the Commission (Crombez 2000; Steunenberg & Selck 2006), several scholars have argued that the Commission's influence on the final policy outcome remains (e.g. Tsebelis & Garrett 2000; Crombez 2003; Steunenberg 2001; König et al. 2007). The only large-n empirical study of different variants of the Codecision models illustrates a tendency towards a weak Commission and a strong Parliament. The model in which Parliament made the final proposal in the Conciliation Committee rendering the Commission's proposal irrelevant was more accurate than any other procedural model specification in the empirical analysis of Steunenberg & Selck (2006). Additionally, the role of the European Parliament and the Council within the Conciliation Committee remains disputed. Tsebelis & Garrett (2000: 25) argue that the institution closest to the status quo has an advantage, since it can make a take-it-or-leave-it offer. Napel & Widgren (2003) and König et al. (2007) confirm this theoretical consideration. While Napel & Widgren (2003) conclude that the Council's position tends to dominate the compromises reached, in a statistical analysis of conciliation, König et al. (2007) find the Parliament to win most conflicts. The set of procedural models tested by Steunenberg & Selck (2006) have performed extremely poorly in predicting outcomes of the decision-making process. Often they are no better than a completely useless random model (Achen 2006a: 385). While Junge & König (2007) show that preference miss-specifications might be responsible for these poor results, critique of the procedural models has been raised in regards to some of the underlying assumptions like the unitary actor assumption, the one shot game assumption, and the assumption of complete and perfect information (Hörl et al. 2005; Bueno de Mesquita 2004; Rittberger 2000).

Several scholars have attempted to build models which, on the one hand, focus on both the bargaining and the voting stage, and on the other hand, link Council bargaining to the domestic level. Bailer & Schneider (2006), for instance, assesses Schelling's (1960) 'paradox of weakness' by embedding domestic constraints into conventional Nash bargaining games. Models, combining bargaining aspects with procedural elements of the decision-making process, are termed mixed models. Examples are the procedural exchange model presented by König & Proksch (2006) and the non-cooperative procedural spatial voting game with cooperative elements presented by Widgren & Pajala (2006). What is common to these approaches is that they fail to improve the predictive accuracy of models focusing on one

stage of the decision-making process. While König & Proksch (2006) improve on other procedural accounts, their model falls far short of the predictions made by the position exchange model (Buono de Mesquita & Stokman 1994; Arregui et al. 2006).

This short overview of models on the EU decision-making process has shown that over the past two decades numerous models have emerged, which focus on different aspects of the political process in Brussels. In an unprecedented attempt to empirically test these models, the DEU project has created a dataset by which most of these models or some variant of them have been tested (Thomson et al. 2006). Why is there room – in the context of this rich literature – for further modeling attempts? Achen (2006a: 385) puts it bluntly when stating that “our models differ from reality far more than they differ from each other” and continues to note that “we are far from having the conceptual tools of any methodological type that we need to forecast political decision making well”. Procedural models, which attempt to model the specific EU context, have performed especially badly in empirical tests. This does not mean that we should look elsewhere, but that they “need theoretical extensions. They need to take into account, not just the formal rules, but also the informal processes that make up so much of what politicians do” (Achen 2006a: 388-9). Taking the cue from here, I develop a model which incorporates the Compromise Model into a procedural setting of the EU decision-making process.

Revisiting the Compromise Model in a Procedural Context

The Compromise Model, which predicts most accurately empirically, is not derived from an analysis of European Union decision-making. In fact, it does not contain any EU specific elements at all. The model fails to differentiate between the roles of the actors at different stages of the decision-making process, since all actors, including the Commission and the European Parliament, enter equation 1 in the same way.³ In contrast to this, I argue that bargaining takes place within the context of procedural rules. Take for instance the Consultation Procedure of the EU decision-making process. Here the Commission plays a different role than the member states. It has an agenda setting advantage since it submits a proposal to Council. In fact, each of the actors acts at predefined stages of the decision-making process, taking on a specific role. I argue that models of political decision-making need to take these procedures into account, and specifically, that the Compromise Model’s application to the EU can be improved when it is embedded within a procedural context.

Additionally, the Compromise Model lacks a process by which it is derived. In Achen's (2006b) own words, there is no theory here, which derives predictions on the basis of fundamental axioms about the political behavior of actors. The Compromise Model is simply a summary of what was known previously, while the process which generates the outcome has not been specified. By incorporating the Compromise Model into a procedural context, such a process is spelled out. The next two subsections discuss the procedural context in general and compromise behavior within this context, respectively.

The Procedural Context

EU decision-making has taken place within the context of procedural rules since the European Community was created in 1957. Article 43 of the Treaty establishing the European Economic Community of 1957 stated inter alia

The Council shall, on a proposal from the Commission and after consulting the Assembly, acting unanimously during the first two stages and by a qualified majority thereafter, make Regulations, issue Directives, or take Decisions, without prejudice to any Recommendations it may also make.

The procedure described in this article is a predecessor of the commonly known Consultation Procedure, in which the Council needs to consult the European Parliament, but can – if it chooses to – disregard the opinion of the Parliament thereafter. In the latest consolidated version of the Treaties, as amended by the Lisbon Treaty, Article 294 defines the “ordinary legislative procedure” for the adoption of an act. Under this procedure – commonly known as the Codecision Procedure – the Commission submits a proposal to the European Parliament and the Council. While the Commission functions as an agenda setter, the member states in the Council and the European Parliament act as legislative bodies, responsible for amending and adopting the acts proposed by the Commission.

As the previous section has outlined, several models of these decision-making procedures have emerged. Steunenberg & Selck (2006) outline the Consultation Procedure and the Codecision Procedure based on models developed by Crombez (1996) and Tsebelis & Garrett (2000, 2001). Following Steunenberg & Selck (2006), Figure 1 illustrates the steps by which decisions are made under the two procedures. In the Consultation Procedure the Commission makes an initial

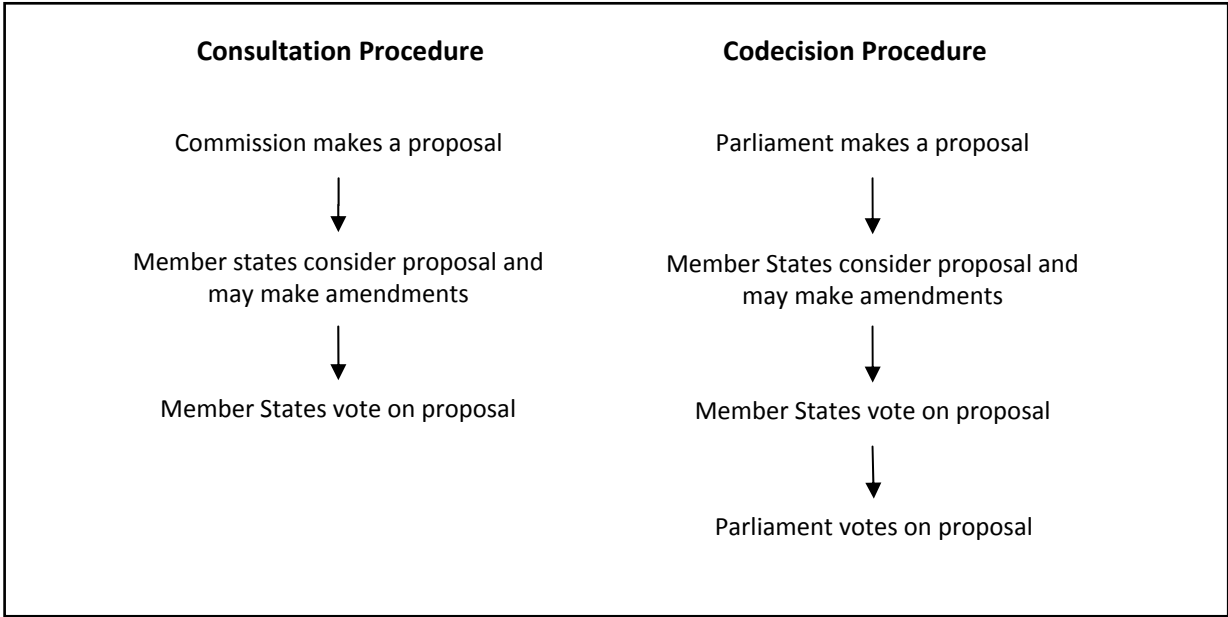


Figure 1: The Procedural Framework⁴

proposal to the Council. The member states in the Council then consider the proposal and can make amendments. Amendments need to be passed by all member states. In a final step the member states vote on the proposal. In the qualified majority version of the procedure, the proposal is passed by a qualified majority, if the Commission’s proposal was not amended and by unanimity if the Commission’s proposal was amended. In the unanimity version of the procedure all member states need to approve the final proposal. As discussed above, there has been considerable disagreement about the procedural steps of the Codecision Procedure. Since the Parliament version of the Codecision Procedure performed most accurately in the empirical tests of Steunenberg & Selck (2006), I opt to implement this model specification below. The Codecision Procedure as illustrated in Figure 1 resembles a reduced form of the game. Formally, the Commission makes the initial proposal. This first step is neglected because Parliament and Council can decide on any policy outcome in the Conciliation Committee. After the Parliament has submitted a proposal to the Council, the Council considers the so called joint text and may propose amendments. The Council then votes on the joint text, followed by a vote of Parliament. In the qualified majority version of the procedure, the Council adopts a joint text by qualified majority, regardless of previous amendments. In the unanimity version of the procedure, the joint text needs the approval of all member states.

Procedural models have focused on modeling the procedural context, given the preferences of the actors involved. Arguably, their major shortcoming is the absence of cooperative behavior. Procedural models of EU decision-making assume egoistic utility maximizing actors, which have Euclidean preferences. The actors share complete and perfect information

and prefer the alternative policy p' to policy p if it is closer to the actors most favored policy alternative x^* . The models are solved through backward induction, using concepts such as the winset and amendment-proof set.⁵ In the case of the Consultation Procedure it is assumed that the Commission submits a proposal which maximizes its own utility, cannot be amended by the Council, but is accepted by the Council. In the Codecision Procedure as illustrated in Figure 1, the Parliament makes the final proposal. In the procedural model, the Parliament's proposal maximizes the Parliaments utility, cannot be amended by Council but is accepted by Council and Parliament (Steunenberg & Selck 2006). The actions of the actors clearly disregard the utilities of the other actors involved. This does not only hold for the Commission and the Parliament, the two institutions which make the initial strategic proposals in the model specifications used here, but also for the member states within the Council. The behavior assumed by procedural models should therefore lead to frequent voting in the Council. In most cases a minority of actors should in fact vote against the decision made. Empirical evidence has shown that the Council does not make decisions in this way (e.g. Mattila & Lane 2001).

A large number of accounts describe decision-making in the Council as consensus driven (Hayes-Renshaw & Wallace 2006; Kerremans 1998: 97; Hix 1999: 73; Peterson & Bomberg 1999: 58; Salmon 2002: 22; Lewis 1998, 2000, 2003, 2005; Westlake & Galloway 2004: 233-238 & 262-273; Heisenberg 2005; Aus 2008). Hayes-Renshaw & Wallace (2006: 279) observe a “pattern that works at the ministerial level mainly by consensus” and in an institutional anatomy of the Union Wallace et al. (2005: 61) states that habits “of consensus-seeking are deeply ingrained, and actual votes relatively rare, even when technically possible”. From a rationalist perspective the consensual decisions of the Council are most frequently explained by log-rolling or diffuse reciprocity (e.g. König & Junge 2009; Mattila & Lane 2001; Elgström & Jönsson 2000). From a sociological perspective they are attributes of informal norms and a culture of decision-making. According to Lewis (2000), a consensus-reflex has developed within the Council. It makes pushing for a vote inappropriate. At the same time the culture of compromise demands that all attempts should be made to bring everyone on board. Heisenberg (2005) traces the culture of compromise back to the Luxembourg Compromise of 1966 in which member states decided to postpone a vote under qualified majority voting whenever one member state felt that national interests were at stake – practically granting a veto to each member state. She believes this culture to have persisted subsequent formal rule changes. Based on roll-call data of Council voting, Mattila & Lane

(2001) also observe a preference for consensus. Even after Eastern enlargement in 2004, where 10 new member states entered the Union, Mattila (2009: 844) could not find a deterioration of consensual decision-making. On the contrary, “if anything, the share of contested decisions has fallen”. He explains this finding by the new members’ quick adoption of the decision-making practices, such as log-rolling.

Generally, procedural models do not capture these aspects of EU decision-making well. While the Compromise Model falls short of modeling the procedural rules of decision-making, procedural models have, by exclusively focusing on the procedures, neglected what seems to be a central feature of EU decision-making: cooperation. Already in 1963 Lindberg observed that

Each member tries to influence the content of the final decision as much as it can, but all are agreed on the necessity of mutual concession, since the normal practice is to exclude the possibility of not reaching an agreement at all. (Lindberg 1963: 285)

By failing to account for such behavior, procedural models ultimately provide a distorted view of how decisions are made in Brussels. In line with Achen (2006a), I argue that procedural models need to account for the cooperative decision-making style of the Council in order to overcome the poor empirical performance in the application of Thomson et al. (2006).

Compromise Behavior in a Procedural Context

The decision-making procedures provide the context in which bargaining takes place. In the procedures outlined in Figure 1, the member states in the Council receive an initial proposal on which they need to make a decision. Various studies have focused on the decision-making style of the Council. In their semi-quantitative analysis Thomson et al. (2006) find that the Compromise Model, focusing on cooperative behavior outperforms all other models of EU decision-making. This underlines the cooperative decision-making style of the Council – also described by various case studies. Lewis (2000) identifies a distinct style of Council decision-making featured by thick trust, a consensus-reflex, and a culture of compromise. Based on interviews he depicts negotiators who speak ‘frankly to each other’ and who have a ‘fairly

honest relationship between each other'. Westlake & Galloway (2004: 272) describe bargaining within the Council as a 'positive-sum' game: "negotiators [who are] unready to shift from their 'ideal' to a 'realistic' position in a negotiation [are]... not 'playing the game'. They become caught in a contradiction between the positive sum environment and their own zero-sum negotiating approach". However, this does not mean that member states are not self interested. They surely are. A British ambassador describes a French "Cartesian dedication to the national interest which makes their formal internationalism and Europeanism in Community activity and representation largely a matter of convenience and tactics" (Westlake & Galloway 2004: 260-1). In fact, the described decision-making style allows member states to quietly drop their reserves or preferred alternatives, when noticing that their arguments are not persuasive, and save their face (Lewis 1998: 497). Returning to the national capital without having lost one's face at the bargaining table in Brussels is an important aspect of the decision-making process. The decision-making style described above ensures that all member states tend to have something to sell back home (Putnam 1988).⁶ National interests are thus put forward within the Council context and are constrained by the Council decision-making style.

In its simplicity, the Compromise Model's formula has captured all of these facets of Council decision-making more accurately than more complicated models of the process. But how can the process, leading to the Compromise Model's prediction be described? I suggest that the Compromise Model can be understood as a tug of war game with each participant pulling a separate rope knotted to the proposed legislative text in the centre of the bargaining arena. Figure 2 illustrates a case with four actors, the size of the circles resembling the power of the actors. The width of the arrows corresponds to the salience the actors attach to the issue. Although actor two is powerful, he is not interested in the issue discussed and will therefore refrain from investing a lot of energy in pulling the proposal towards its preferred policy alternative. Not so actor three. She is equally powerful and the issue is far more salient to her. As a consequence she will invest more energy in pulling the rope, i.e. influencing the final outcome. Unlike a normal tug of war game, in which one side wins all when pulling the rope over a previously defined mark, the tug of war game describing the Compromise Model is more cooperative in nature. In fact the Compromise Model can be generated by a process in which all actors simultaneously pull their rope. The strength by which the actors pull their rope is determined by their relative power capabilities and their salience. Finally it is assumed that the actors will agree to the final outcome under the condition that all actors behaved

similarly. Actors will therefore deviate from normal behavior in order to “punish” those who do not act according to rules proscribed by the cooperative style of Council decision-making. An actor will, for instance, refrain from voting in favor of an amendment which makes excessive demands out of line with the amendment maker’s power and salience on the issue. Within this tug of war game it is assumed that the actors do not act strategically. Knowing the direction in which other actors want to pull the proposal on the table, the actors avoid pulling the proposal beyond their preferred policy alternative. Implicitly this means that an actor will not pull its rope at all if the initial policy proposal is identical to its preferred policy alternative. Although Ministers do not literally engage in a tug of war game within the conference rooms of the Council, the tug of war game describes the bargaining process in which each actor makes amendments to the initial agenda setter’s proposal, ensuring that its interests are incorporated into the final outcome.

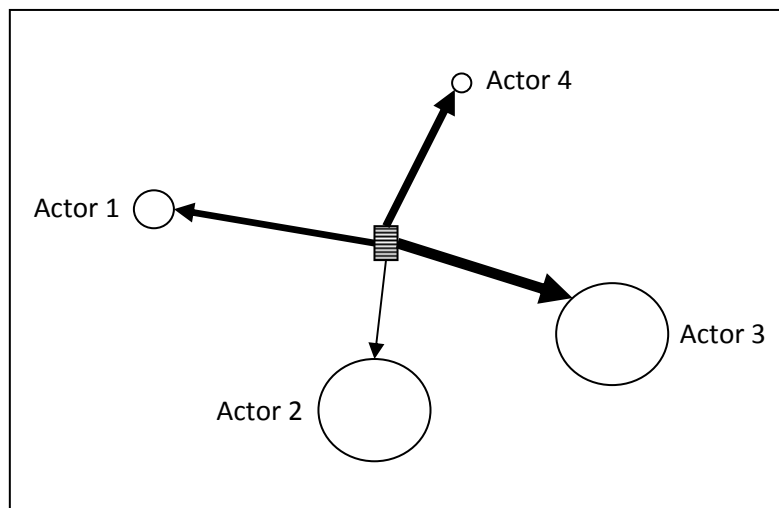


Figure 2: Tug of war game

Why should member states act this way? Why do they opt for cooperative behavior rather than purely egoistic actions? Already (Weber 1968 [1922]) identified four types of social action: *instrumentally rational*, *value-rational*, *affectual*, and *traditional*. An actor who acts *instrumentally rational* takes into account means and ends, rationally opting for the mean and end that maximizes its own welfare. In the terms coined by March & Olsen (1995) the actor follows a logic of consequentiality. Actors who act *value-rationally* disregard the consequences of their actions and focus on their belief of appropriate actions. The meaning of value-rational action can simply lie in performing the action for its own sake. The latter two types of actions relate to emotional behavior often stimulated by an external shock and habitual behavior as can be observed in many everyday routines. Both are understood to lie at the borderline of rational action. The latter three types of actions are more closely related to

the logic of appropriateness than they are to consequential behavior (March & Olsen 1995, 2009).

Consequential behavior focuses on alternatives and their consequences for the welfare of the decision-maker (March & Olsen 1995: 7). If two options X and Y are available in a single decision-making situation, consequential behavior always leads to a choice of the alternative with the highest returns. If the EU institutions met only once to decide on a single issue, then consequential behavior would not lead to cooperation. If, however, and this is the case, the Council meets regularly over an unlimited time period, discussing an abundant number of controversial issues then mechanisms such as log-rolling or diffuse reciprocity can explain cooperative actions via consequential behavior. Abundant literature has shown how cooperation can evolve in this context (e.g. Axelrod 1981, 1984; Riker 1980; in an EU context Selck 2005; König & Junge 2009; Elgström & Jönsson 2000). Translated into the tug of war terminology, this means that an actor will pull his rope less forcefully when he is not interested in the matter – leaving the others to struggle over the issue. An actor does so, because he knows that other actors will do the same if in turn they have a low salience on a future issue. Cooperation is thus based on reciprocity (Trivers 1971; Alexander 1979; Boyd & Richerson 1988; Nowak & Sigmund 1998; Panchanathan & Boyd 2004; Suzuki & Akiyama 2005). An implication of the consequential behavioral approach is that on average and in the long run the actors should obtain higher utilities cooperating than acting egoistically. In the empirical analyses below, I assess this implication and find support for a rationalist reading of cooperative behavior within the Council.

Having discussed Council negotiations, the procedural context demands an analysis of the other two major institutions of EU decision-making: the Commission and the European Parliament. According to the Compromise Model, Figure 2 could be interpreted as follows: Actor one resembles the Commission, while actors two and three resemble a member state, say Germany and France. Although Van den Bos (1991) notes, that the member states accept a compromise proposal of the Council Presidency and the Commission, and therefore implicitly acknowledges that actors have different roles within the process, the Compromise Model falls short of differentiating between these roles. By treating every actor identically, the Compromise Model maintains its general and therefore abstract character. When applying it to the EU decision-making process, however, assuming all actors to play the same role within the process is a stark simplification of reality.

What roles do the European Parliament and the Commission play within the inter-institutional legislative process? The culture of compromise and the atmosphere of mutual trust within Council decision-making have – after initial difficulties – also spilled over to the discussions between the Council and Parliament within the Conciliation Committee of the Codecision procedure (Farrell & Heritier 2002). After the Maastricht Treaty, which introduced the Codecision Procedure, the Council initially refused to engage in substantive negotiations with the Parliament. Only slowly, and through informal meetings – the so called trialogues – an atmosphere of trust developed. These meetings enabled both sides and the third player of the trialogues, the Commission, to speak more frankly and explain the underlying reasons of their arguments. Codecision has thereby created an intense negotiation forum between members of the European Parliament (MEPs), members of the Council, and the Commission (Lewis 2005: 946). Shared rules of engagement evolved, which prescribe a cooperative approach in which each institution needs to explain its arguments and support agreed compromises. Close ties also exist between the Commission and the Council. When describing the EU with six members in the early sixties Lindberg (1963: 285) noted that “the Commission participates as a *de facto* seventh member in all meetings of the Council”. But he also points out that the “Commission enjoys some unique advantages by virtue of its ability to embody the authority of a Community consensus. It can claim to speak for the common interest”. As a supranational institution, its members are seen to be dedicated to promoting the European cause (Garrett 1995: 298; Hooghe 2005: 863-4). Officials of the Commission evoke an expert role independent from their national affiliations more strongly than experts in the Council (Trondal 2001).

Despite the cooperative descriptions of EP and Commission relations to the Council, I argue that both of the institutions have an agenda setting advantage in the procedural context outlined in Figure 1 (e.g. Romer & Rosenthal 1978). Both, the Commission and the European Parliament, present the initial proposal to the Council. I argue that they do so in a strategic way. The Commission is often noted to have an informational advantage (e.g. König et al. 2007; Marks et al. 1996). Garrett (1995) for instance argues that the Commission promotes EU integration more effectively under the Consultation Procedure, where it is the sole agenda setting actor. Additionally, the superiority of the EP’s Codecision model specification in the application of Steunenberg & Selck (2006) indicates a strategic advantage of the EP within the Conciliation Committee. In general it can be concluded that the EU institutions are all dependent on each other within the decision-making process. None can dominate the

decision-making process, but relies on support, coalition-building, and compromise (Wessels & Diedrichs 1997). The roles the actors play and the rules by which they act are operationalized in the following section, in which the Procedural Compromise Model is derived.

The Procedural Compromise Model

Since the PCM integrates insights of the simple Compromise Model into a procedural context, the different actors located in the procedural context are discussed separately. Before analyzing the agenda setting role of the Commission and the European Parliament in the different procedures, I discuss the member states actions within the Council.

The Member States

Descriptive accounts of member states' behavior in the Council illustrate that the states strive towards consensus without neglecting their own interests. This observation, as depicted by the Compromise Model, is operationalized by assuming that each member state claims its share of influence over the political outcome of the negotiations (pulls the rope in the tug of war game towards its preferred policy alternative), while granting others their share of influence (accepts amendments made by others and the final outcome of the tug of war game). Based on the factors identified by Institutional Realism, I assume the share of influence claimed by each member state to be determined by an actor's power and salience on the issue. Additionally, I assume the influence exerted by the actors to depend on the losses a member state faces if the current proposal were to be adopted un-amended. Allowing for everybody to 'save their face', means granting the actor which would face greater losses more influence over the bargaining process than an actor which is actually quite content with what's on the table. I therefore assume, the share of influence an actor has to be dependent on the distance between its ideal policy p^* and the policy proposed by the agenda setter AS p_{AS} . Taking the cue from the Compromise Model (Van den Bos 1991), this distance is weighted by an actor's salience s and an actor's capability v . Actors will claim greater influence over the policy outcome if the issue is of high salience to them. Taken together, the share of influence inf actor i claims within the bargaining process is defined by

$$inf_i = \frac{s_i v_i (|p_i^* - p_{AS}|)}{\sum_{j=1}^N s_j v_j} \quad (2)$$

This definition of claimed influence builds on the influence an actor is assumed to have in the Compromise Model. The difference lies in the context in which this influence is exerted. I assume that actor i aims at influencing the initial agenda setter's proposal. In his development of a two stage decision-making model, Van den Bos (1991: 50) assumes that the resources of actor i can be controlled by another actor. The definition of the influence each actor claims for himself ensures that an actor will not claim any influence over a policy decision, if it is not interested in the matter ($s_i = 0$). Likewise an actor will not be able to influence the agenda setter's proposal, if it has no formal power in doing so ($v_i = 0$). Finally, actor i 's explicit influence over an agenda setter's policy proposal is zero (i.e. the actor does not pull the rope in the tug of war terminology), whenever the agenda setter's proposal is actor i 's preferred policy alternative. Implicitly, however, actor i 's position is taken into account, since the other actor's claims on the bargaining outcome are relative claims and therefore smaller because they take actor i 's salience and voting power into account.⁷

Due to the cooperative nature of Council decision-making, such claims of influence are in return granted to all other actors. Member states therefore emphasize their preferred policy outcome while at the same time acknowledging the other actors' preferences. It should be noted that the member states also grant the agenda setter, a fair share of influence on the policy outcome. The sum of weights in the denominator of the above formula also includes the agenda setter's powers and salience on an issue ($AS \in N$). Since the member states tend to act by consensus they could, at least in the case of the Consultation Procedure, always overrule the agenda setter, rendering its initial proposal irrelevant. Based on the descriptive accounts of Council bargaining, which have for instance described the Commission as a de facto additional member state within Council meetings (Lindberg 1963) I argue that the member states refrain from doing so. They include the agenda setter into their notion of consensual decision-making.

The bargaining process within the Council is modeled via amendments made by the member states. In line with the tug of war game described above the amendments are made simultaneously. It is assumed that all member states make amendments a_i which pull the policy outcome in their direction by exactly inf_i :

$$a_i = p + inf_i \quad (3)$$

In the above formula p resembles the proposal as it stands within the negotiations. The first member to make an amendment makes the amendment a_1 which amends the agenda setter's proposal p_{AS} :

$$a_1 = p_{AS} + inf_1 \quad (4)$$

Since it is assumed that all other member states grant member one its influence inf_1 amendment a_1 is accepted and therefore becomes the currently discussed proposal p . The second Member makes amendment

$$a_2 = a_1 + inf_2 \quad (5)$$

and so forth until the n^{th} member has made its amendment. By recursively inserting the formulas and assuming that all actors make their amendments (i.e. pull their ropes) simultaneously, the outcome o of the Council bargaining process can be described by

$$o = p_{AS} + \sum_{i=1}^{N, AS \notin N} inf_i \quad (6)$$

In this scenario, the order in which amendments are made is irrelevant, since all amendments are passed and no updating on sides of the member states occurs. It is not difficult to see that the outcome in fact resembles the well known outcome of the Compromise Model with one exception.

$$o = \frac{s_{AS} * v_{AS} p_{AS} + \sum_{i=1}^{N, AS \notin N} s_i v_i p_i^*}{\sum_{i=1}^N s_i v_i} \quad (7)$$

The final outcome in equation seven relates to the bargaining outcome of the Council after the agenda setter has made the proposal p_{AS} . The Compromise Model assumes that all actors' preferences – including the Commission's – enter the model. Here, it is not the agenda setter's ideal policy alternative which enters equation six but the agenda setter's proposal submitted to the Council. Depending on the rules by which the agenda setter makes its proposal, this can have a significant impact on the final model prediction. Formulated differently, if the agenda setter proposes its ideal position, the Procedural Compromise Model predictions are identical to the forecasts of the Compromise Model. The Compromise Model is thus a special case of the Procedural Compromise Model, proposed here. In the following I discuss how the agenda setter makes its proposal.

The Commission and Parliament: Agenda Setting

In the framework of the Consultation and Codecision Procedures as outlined in Figure 1, the Commission and Parliament function as agenda setters. How do they make their proposal? In procedural models the agenda setter works through all steps of the game in order to choose the sure alternative that maximizes its own utility. In the Procedural Compromise Model I make following assumption about the Commission and Parliament as agenda setters. As first movers, both are regarded to have an informational advantage, which they use in order to direct the negotiations in the Council in their favor. In this sense, they are – at least in the agenda setting stage – less inclined to accommodate the different preferences of the member states. Rather, they trust the ongoing bargaining process to accommodate the member states preferences into the final outcome. The agenda setter's proposal p_{AS} , therefore depends on the expected outcome o^e and the agenda setters ideal policy alternative p^*_{AS} :

$$p_{AS} = \min |o^e - p^*_{AS}|. \quad (8)$$

When making its proposal the agenda setter assesses all possible policy proposals and chooses the proposal which results in an expected outcome closest to its most preferred policy alternative. Both, the Commission and the Parliament therefore act as rational actors when functioning as first movers. They try to optimize the political process in their favor. I believe this behavior to be in line with the described promotion of European integration by the supranational institutions (e.g. Garrett 1995) and the informational advantage noted for the Commission (König et al. 2007). Unlike the Commission in the Consultation Procedure, the Parliament has a final say in the adoption of a legislative act in the Codecision Procedure. Since it influences the bargaining outcome by its initial proposal, and this proposal is incorporated into the final outcome proposed by the Council (the member states take the EP's proposal, its salience, and power into account), it is assumed that the Parliament will accept the outcome of Council deliberations. This behavior is in line with the trustful working atmosphere which evolved in the Conciliation Committee.

The functioning of the model is illustrated by a simple example with a Council of five members: M1, M2, M3, M4, and M5. Assume the ideal points of the five Council members and the Commission to be as illustrated in Figure 3. Assume further that all members have equal power and salience, and that a decision is made by the qualified majority version of the Consultation Procedure – a qualified majority being reached when three of the five members

vote in favor. The procedural model predicts an outcome of 30, since M3 is the pivotal player and the closest policy alternative to the Commission's ideal position in M3's preference set is 30. The Compromise Model predicts an outcome of 40, assuming that the Commission needs to be included in a coalition for it to be a winning coalition. If this were not the case, the Commission's position would be ignored. In the Procedural Compromise Model, the Commission submits to the Council a proposal p_{AS} at position 100. Member M5 is completely satisfied by this proposal and refrains from making an amendment. All other members make amendments which pull the proposal in their preferred policy direction. This does not mean, that member M5's preferences are ignored within the bargaining process of the model. His position is accounted for by his power and the salience with which M5 holds his preference on the issue. These enter the calculations of the other member states when they assess their claimed share of influence (see discussion of equation one). M5 in turn, accepts that the other member states cannot sell an outcome of 100 at home, and grants them their share of influence on the final policy outcome. He therefore agrees to the amendments of the other member states. The final outcome as predicted by the PCM is 44. In comparison to the Compromise Model, the Commission is able to increase its utility by making a strategic proposal that influences the bargaining process within the Council. Having outlined how the PCM functions and how it captures cooperative bargaining within the setting of the procedural context the next section provides the empirical test.

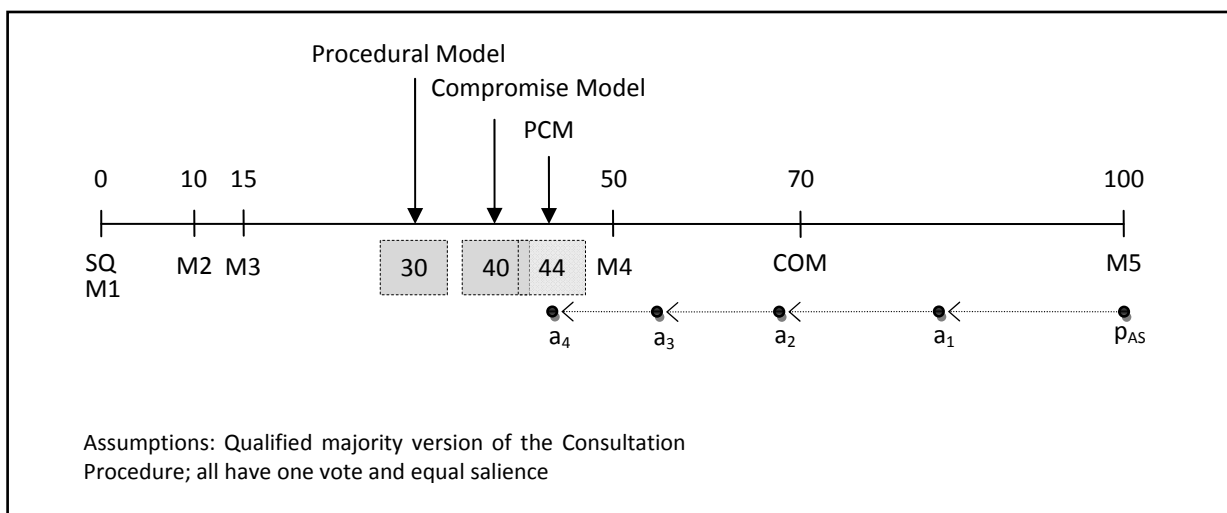


Figure 3: The Functioning of the PCM – An Example.

The Empirical Test

How does the PCM compare to procedural models of EU decision-making and the state of the art Compromise Model empirically? In order to answer this question I follow the research design of the DEU project (Thomson et al. 2006). Since this research design, which builds on the work of Bueno de Mesquita & Stokman (1994), is extensively described by Stokman & Thomson (2004) and Thomson et al. (2006), I only shortly outline its most important aspects. Within the context of the DEU project, the DEU dataset was established via expert interviews in Brussels. The dataset contains information on actor's preferences, salience, and capabilities, as well as information on the status quo and outcomes of 174 issues discussed within the Council from 1999 to 2000. The DEU dataset is the most extensive dataset on EU decision-making.⁸ The controversial issues identified by the experts were discussed within the context of 66 legislative acts, which were adopted by the Consultation and the Codecision Procedure. For each of the issues, the actor's ideal positions p^* , i.e. most preferred policy outcomes, were quantified on a scale ranging from 0 to 100. Likewise, the actors' salience were classified on a scale from 0 to 100, 0 meaning that the actor attaches no importance to the specific issue. The dataset contains several operationalizations of the actors' capabilities (Thomson et al. 2006). In the DEU project, capabilities have predominantly been measured by the Shapley-Shubik Index. I utilize the same measure of power for my analysis. For a more detailed discussion of capabilities and the DEU dataset in general see Bailer (2004a, 2006) and Thomson & Stokman (2006), respectively.

In the following I test the PCM on the DEU dataset and compare its predictions to the predictions of the procedural and Compromise Model, respectively. In my application of the Procedural Compromise Model to the dataset, I make following additional assumption. The PCM can be applied to a single policy dimension. Several scholars have pointed to the importance of decision-making dimensionality (Selck 2004; König 2005; Junge & König 2007). By comparing the predictive accuracy of procedural models in single and multidimensional policy spaces, Selck (2004: 216) demonstrates that contentious issues within one proposal are negotiated simultaneously and not on an issue-by-issue basis. König & Pöter (2001) and König (2005: 363) emphasize that the proposal as unit of analysis is an important boundary condition for political analysis, since EU institutions tend to bargain over the issues of a single proposal only. By simulations Junge & König (2007) show that procedural model policy predictions tend to be influenced more pronouncedly by the specification of the relevant number of dimensions than the actual policy process. A

misspecification of the dimensions thus leads to substantive predictive inaccuracy and possibly false conclusions on the structure of the policy process and agenda setting powers. Most procedural models functioning within a multi-dimensional space assume that actors attach the same degree of salience to all issues (e.g. Steunenberg & Selck 2006). This assumption – which simplifies calculations – is unrealistic, as a simple view of the DEU dataset shows. Actors tend to value negotiated issues of a proposal differently. With the one dimensional approach applied here, I follow the application of the Compromise Model by Arregui et al. (2006). In his development of the Institutional Realism Model, Achen (2006b: 145) supports this approach by pointing out that the salience of the actors incorporates information on how the utilities are traded across issues. The influence of a member state on the final outcome of an issue is larger, when the member state values the issue highly. Implicitly, the PCM, therefore, includes tradeoffs between various issues, even when it is applied on a one dimensional basis only.

Applying the model to 173 controversial issues discussed in Brussels yields the findings presented in Table 1.⁹ The models are assessed by the mean absolute error (MAE), which is simply the average size of the forecasting mistake over all issues (Achen 2006a). The procedural model results displayed in Table 1 are those for the Consultation Procedure model presented by Steunenberg & Selck (2006) for the first two columns of the table and those for the Parliament version of the Codecision Procedure for the third and fourth column of the table (own calculations). The number of assessed issues differs from the number of issues used in the analysis of the PCM and the Compromise Model because several issues lack information on the status quo, which is needed to assess the procedural model. Additionally, the empirical analysis of Steunenberg & Selck (2006: 115) is conducted in a multi-dimensional space with a maximum of three dimensions. Whenever a proposal had more than three issues, three issues were selected and the others dropped from the analysis. The PCM, which is assessed on a one dimensional basis predicts substantially better than the procedural model with the exception of the qualified majority version of the Codecision Procedure. Based on the theoretical similarities between the PCM and the Compromise Model it is not surprising that their mean average errors are extremely similar. The errors of the PCM are however significantly lower (one-tailed t-test) at a 5% significance level and weakly significantly different (two-tailed t-test) at a 10% significance level from the errors of the Compromise Model. I therefore find some statistical support for the Procedural Compromise Model. Especially in the cases of qualified majority, the PCM predicts slightly better than the Compromise Model.

	CNS QMV (n=55)	CNS UN (n=44)	COD QMV (n=58)	COD UN (n=16)	All Issues (n=173)
PCM	22.5	19.1	26.4	24.8	23.1
Compromise Model	23.3	19.1	26.8	25.0	23.6
Procedural Model	36.0 (n=34)	36.1 (n=21)	29.5 (n=35)	29.6 (n=10)	33.2 (n=100)

Table 1: Mean Absolute Errors¹⁰

When comparing the PCM and the Compromise Model it is more interesting, however, to assess those cases in which the agenda setter in the PCM makes a strategic proposal only. This is not always the case, since when the agenda setter’s ideal point lies at one of the extremes of the issue spaces, the best the agenda setter can do is to make a proposal equal to its ideal position. In these cases the predictions of the PCM equal those of the Compromise Model.¹¹ In 37 issues, however, this is not the case. Table 2 illustrates the performance of the PCM and the Compromise Model on these 37 issues. For those cases, in which the PCM predicts differently than the Compromise Model, the PCM has a mean average error of 16.7, compared to a mean average error of 18.8 for the Compromise Model.¹² The so called Hit Rates – the number of cases in which one model performs more accurately than the other (Thomson et al. 2006) – indicate that the PCM outperforms the Compromise Model in 57% of the cases, while the Compromise Model outperforms the PCM in only 43% of the cases. These results support the Procedural Compromise Model and indicate that the Compromise Models predictions can be improved by incorporating procedural elements – in form of the strategic agenda setter – into the model.

	MAE	Hit Rates
PCM	16.7	57%
Compromise Model	18.8	43%

Table 2: Strategic Agenda Setting Cases (n = 37)

The findings presented above lead to two main conclusions. First, combining procedural models with bargaining models can improve on both existing procedural and standard cooperative bargaining accounts of EU decision-making. The PCM predicts more accurately than the Compromise Model and the procedural models. This result indicates that bargaining models can benefit from taking into account procedural aspects, like the role of the agenda setter, while procedural models profit from incorporating cooperative elements of bargaining. Second, these improvements are small in relation to existing cooperative models but very substantial when compared to traditional procedural accounts of EU decision-making. This

highlights the benefit of including cooperative actors into the initially un-cooperative procedural models.

Cooperative actions in the context of instrumentally-rational actions should lead to an increase in utilities for the actors in the long run, either via direct benefits or the avoidance of costly punishments. Without such an increase in utilities instrumentally-rational actors should have no incentives to act cooperatively. If we accept 100 issues discussed in Brussels to resemble a long run scenario, we can assess whether the actors obtain direct benefits from cooperation by comparing predicted and observed actor utilities.¹³ In a similar fashion Hug & König (2002) have assessed the distances between member states preferred outcomes of the Amsterdam Treaty negotiations, the status quo, and the finally ratified treaty. In line with the unproblematic ratification process of the Amsterdam Treaty, they find that the Amsterdam Treaty was preferable for all member states when compared to the status quo. Table 3 presents the results on average utility calculations for the issues within the DEU dataset. The first column in Table 3 reports the observed utility changes. For each issue and actor, I calculate the utility change resulting from the move from the status quo to the observed outcome. The utility changes reported in Table 3 are the average utilities over all issues obtained by each actor, i.e. the utilities obtained in the long run. The second and third column present the predicted utility changes of the procedural and the Procedural Compromise Model.¹⁴ The final column reports the differences between utilities obtained by acting non-cooperatively (procedural model outcome) and cooperatively (Procedural Compromise Model outcome).¹⁵ The results indicate that acting cooperatively improves all actors' utilities. Cooperative actions are thus beneficial in the long run. These findings make cooperative action based on instrumentally-rational action feasible, if not highly likely. The PCM tends to predict higher levels of utility gains than actually obtained (compare columns three and one of Table 3). The lower levels of observed utility gains indicate that EU decision-making either fails to reap all potential benefits of cooperation or the model, and this is more likely, exaggerates potential utility improvements by neglecting important aspects of the bargaining process (e.g. imperfect information, transaction costs).

	out-sq	proced-sq	pcm-sq	pcm-proced
com	252**	199**	291**	91**
ep	201**	218**	263**	45*
at	86**	76**	139**	63**
be	141**	153**	217**	64**
dk	123**	108**	165**	56**
fi	153**	139**	181**	41*
fr	191**	165**	247**	81**
de	76*	109**	134**	24 ¹
el	81*	76**	141**	64**
ie	97**	76**	140**	63**
it	144**	136**	227**	90**
lu	69*	70**	115**	45*
nl	104**	69**	154**	84**
pt	122**	112**	192**	80**
es	120**	98**	174**	76**
se	142**	107**	162**	55**
uk	113**	67*	136**	68**

Notes: $H_a \mu \neq 0$: * $p < 0.05$ ** $p < 0.01$. ¹ $H_a \mu > 0$ at $p < 0.1$.

Table 3: Average Utility Changes.

Discussion

The Procedural Compromise Model has combined procedural elements of EU decision-making with cooperative bargaining. By spelling out a process by which the Compromise Model's predictions are generated and incorporating procedural elements into this process, the PCM visualizes the benefits of combining two modeling approaches. Empirically, the model improves on the reference models' accuracy in predicting decision outcomes at the EU level. The analysis shows that neither the procedural context, nor the cooperative style of decision-making should be neglected when modeling the EU decision-making process. Both determine and shape the final decisions made.

An analysis of predicted average utility gains and actually materialized average utility gains supports the consequential behavioral reading. In the long run, member states profit from cooperation. The analysis has, however, also shown that the EU is not reaping all possible returns of cooperation. On average, the actors could increase their utilities by following the process described by the Procedural Compromise Model more closely. There are several reasons why they might not have done so. Possibly, the member states are not always aware of all utility improving exchanges, they face imperfect information. Furthermore, transaction

costs and additional structural constraints, which are not included in the model, could reduce initially feasible policy options.

Finally, the PCM cannot invalidate Achen's (2006a) observation that our model's predictions are still closer to each other than to reality. Although, the PCM's improvements in regards to the Compromise Model are quantifiable and statistically significant, they are at best marginal when one regards the bigger picture of developing a model which yields reliable forecasts for EU decision-making. In absolute terms the errors are still extremely high and leave much room for future improvements. Here are several points that come to mind: 1. The PCM predicts more accurately when decisions are made by Consultation than by Codecision Procedure. The informational advantage assumption might be an explanation for this. It can be argued that this assumption fits more accurately to the Commission's role as agenda setter, than the Parliament's role within the Codecision Procedure. Improvements could therefore be made by differentiating between the agenda setter roles in the Codecision and Consultation Procedure. 2. The PCM is less successful in improving predictions for the QMV version of the Codecision Procedure. Table 1 illustrates that all models fail to account for the dynamics of this procedure – which might not be surprising in the light of the many controversial debates about the effects and functioning of the procedure on the first hand. One way of improving the predictions of this procedure might be a more differentiated analysis of the first mover's advantage within the Conciliation Committee as noted above. Clearly, however, the qualified majority version of the Codecision Procedure needs further investigation of a more general character. Some of the underlying processes of this procedure are not yet captured by the models. 3. The PCM can be extended to a multidimensional policy analysis. According to Selck (2004) and Junge & König (2007), taking explicit account of the multidimensional bargaining situation in the Council should improve the empirical performance of the PCM. A rigorous treatment of multidimensional bargaining should take into account all controversial dimensions identified by expert interviews. The Procedural Compromise Model can be generalized to an n-dimensional context, requiring less computational power in higher dimensions than the original procedural model. It therefore bears the potential for taking into account a more complete policy space.

Notes

1. Several scholars have extended the DEU dataset to the post Eastern enlargement period (Hertz 2006; Arregui et al. 2006; SNF Research Project at ETH Zurich: “Does Group-Size matter? European Governance after Enlargement”). I opt for using the pre-enlargement dataset as it allows comparing the PCM with the existing findings of (Thomson et al. 2006).
2. Schneider et al. (2010) use bargaining models to assess bargaining power within the Council of Ministers. For an in-depth discussion of bargaining power see also Bailer (2010).
3. In empirical applications of the Compromise Model, power has been measured by the Shapley-Shubik Index (Thomson et al. 2006). This a-priori voting power index takes the procedural context into account when calculating the number of permutations in which an actor is pivotal to a winning coalition. Since all permutations, are however, assumed equally likely, the Shapley-Shubik Index does not account for issue specific preference constellations.
4. In the EP version of the Codecision Procedure Steunenberg & Selck (2006) assume that only the Presidency can make an amendment at stage two of the procedure. Since EU bargaining tends to bring everyone on board, I argue that all member states can propose amendments at this stage of the decision-making process.
5. Given a certain decision-rule, the winset of the Council is the set of policy options that are preferred by to the status quo by a winning majority in the Council. The amendment-proof set of the Council is the set of policies that cannot be changed by the Council, since no member state can make an amendment which is supported by all other member states.
6. For a discussion of domestic constraints within the EU context see Bailer & Schneider (2006), Bailer (2006), and Schneider et al. (2010)
7. The denominator of formula one includes all actor’s salience and voting powers.
8. It is the best data available to date – although and because dependent on expert interviews, not without its own shortcomings. For a discussion of these see Bailer (2004b), Sullivan & Selck (2007), Thomson (2006), Schneider et al. (2006), König et al. (2005), and Bueno de Mesquita (2004).
9. Thomson et al. (2006) assess only 162 issues since 12 issues had not been adopted at the time of writing. I thank Robert Thomson for providing updated information on 11 issues. In one case no final outcome is given. This issue is dropped from the analysis.
10. Most likely, the results for the procedural model differ from those presented by Steunenberg and Selck (2006) because different issues were used for the analysis. The difference to Steunenberg and Selck (2006) does not impinge on the main findings of this paper.
11. This is also the case, when the agenda setter has a salience or power of zero on the issue. In such cases the agenda setter refrains from making a strategic proposal.
12. For the selected 37 issues, the MAE for the PCM is again statistically significantly lower at a 5% significance level than that of the Compromise Model (one-tailed t-test).
13. The utility u of actor i is calculated by using following utility function: $u_i(x) = s_i |x_i^* - x|$, where s_i is the salience, x_i^* is the preferred policy outcome of actor i and x is either the observed outcome, the status quo, or the predicted outcome.
14. Procedural model predictions were estimated on 100 rather than the 173 issues used to analyze the PCM. These remain after dropping issues which contain more than four ‘neutral positions’, reducing proposals to the three most salient issues, and dropping all cases for which no status quo was given. For the actor-specific calculations only

those issues were assessed for which an actor position was given (i.e. the actor was not ‘neutral’).

15. These calculations are not based on interpersonal comparisons of utilities, which Hug and König (2002:466) rightfully term “a dangerous territory”.

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The new Member States and the Council of Ministers: how cooperative is behavior after Eastern Enlargement?

by

Robin Hertz

Abstract

This article analyzes whether the Eastern European countries have adapted to the well known cooperative bargaining style of the European Union's Council of Ministers after acceding to the Union in 2004 and 2007. Based within a rationalist framework, I show that the new member states have had little incentives to deviate from cooperative behavior after enlargement, since preference constellations and the Council negotiation framework strongly favor cooperative behavior. I address the issue by extending the Procedural Compromise Model (Hertz 2010) to include a baseline uncooperative actor strategy. Utilizing an extension of the Decision-making in the European Union (DEU) dataset (Thomson et al. 2006) to the post enlargement period, I empirically test different versions of the Procedural Compromise Model. I find that the new member states have quickly adapted to the cooperative bargaining style. Finally, and based on the model specification, I derive expectations about the consequences of cooperative behavior for EU decision-making in general.

Introduction

Once inside, Poland's leaders have not shied away from blocking a swathe of decisions, from mouthing nationalist rhetoric and persistently breaching EU law. [...] In three years of membership, Poland has gained a reputation as an EU troublemaker. It competes with France for the title of the most arrogant member state, with the UK for the most Eurosceptic and has probably dethroned Spain as being the most ruthless negotiator (European Voice 2007).

In the first couple of years after Eastern enlargement in 2004, the headlines were full of Polish maneuvers in Brussels, which did not seem to fit the well known cooperative style of EU decision-making. The European Union, created to overcome the rifts of two World Wars, suddenly needed to grapple with arguments inspired by historical comparisons (take for instance Radek Sikorski's comparison of the Baltic pipeline project to the Molotov-Ribbentrop Pact). Headlines as such pose the question whether the new Member States have settled in. Have the new member states adopted the cooperative style of Council bargaining, or have the additional twelve members changed Council bargaining all together? Prior to enlargement, the scholarly field expected the latter. Several studies predicted that EU decision-making would become more cumbersome (e.g. Tsebelis & Yatahanas 2002; Baldwin & Widgrén 2004). These expectations are in contrast to recent evidence on EU decision-making after enlargement, which finds few differences to the pre-enlargement time period (e.g. Best & Settembri 2008; Mattila 2009; Thomson 2009; Hertz & Leuffen 2008, 2010).

In accordance with Bailer et al. (2009) who identified sociological group theories to explain the 'business as usual' scenarios described by the literature after Eastern enlargement, I assess whether the new member states have adapted to the decision-making practices of the old member states. The notion of adaptation has been assessed in a wide variety of contexts, ranging from adaptive behavior of individuals when they enter a new work context (e.g. Van Maanen & Schein 1979; Raven & Rubin 1976) to institutional adaptation in the context of international politics (e.g. Checkel 2005). In line with rational-choice institutionalism I show that new member states have positive incentives to adopt the cooperative style of Council negotiations. I understand adaptation as a purely rational process, driven by cost-benefit analyses. The utility assessment performed in the empirical part of this article, provides valuable, additional insights for understanding why there is so much unanimity in the Council (Mattila & Lane 2001; Hoyland & Hansen 2010). I argue that cooperative decision-

making has survived enlargement and that this has two important implications for the decision-making process after the accession of ten or twelve new member states. Specifically, cooperative behavior, when compared to uncooperative actions, should lead to an increase in legislative output, with longer decision times, i.e. a slowing down of the decision-making process.

In an attempt to assess cooperative behavior in post enlargement Council bargaining, I utilize a new dataset of post enlargement decision-making. The dataset contains information on member states', the Commission's and the European Parliament's preferences, salience, and capabilities on 159 controversial issues on the legislative agenda after Eastern enlargement in 2004. It is an extension of the dataset collected by the DEU project (Thomson et al. 2006). The dataset is analyzed by the Procedural Compromise Model (PCM) – a model of EU decision-making which is based on the Compromise Model, first presented by Van den Bos (1991), but takes into account the procedural context of EU bargaining. The model developed by Hertz (2010) has been tested on a pre-enlargement dataset and empirically improves on the performance of purely procedural models (Crombez 1996; Steunenberg & Selck 2006) on the one hand and pure bargaining models (Van den Bos 1991; Achen 2006b; Arregui et al. 2006) on the other hand. The question of whether the new member states have adopted the cooperative style of Council bargaining is answered by extending the Procedural Compromise Model with an uncooperative bargaining strategy. Comparing the predictive accuracy of two different model versions, the one featuring cooperative new member states and the other uncooperative new member states, allows inferences on the new member states' behavior after enlargement. At the empirical level, I therefore ask whether the assumption of uncooperative behavior by the new member states leads to more accurate predictions than the assumption of cooperative behavior.

The article is organized as follows. The next section discusses the impact of enlargement on EU decision-making and the expectations formulated prior to enlargement. The third part focuses on the conditions under which adaptation should take place, i.e. the conditions under which the new member states should act cooperatively. In the fourth section, the research design is presented by introducing the Procedural Compromise Model and its modifications, as well as the dataset used to empirically test whether the new member states have adapted to the cooperative style of Council bargaining. The fifth section presents the results and the final part concludes by discussing the implications of continued cooperative behavior for the EU decision-making process in general.

EU Decision-Making and the Impact of Eastern Enlargement

EU decision-making is generally considered to be of a cooperative nature (see for instance Westlake & Galloway 2004; Dinan 2005; Wallace et al. 2005; Lewis 1998, 2000, 2005; Heisenberg 2005; Hayes-Renshaw et al. 2006). Without losing sight of their own interests the Member States strive for consensus within Council bargaining. In a descriptive account Lewis (2000) has described thick trust and a culture of compromise to dominate the style of Council decision-making. Mattila & Lane (2001) and Mattila (2009) have found similar evidence when analyzing Council roll call data. Most decisions are made by consensus. The explanations for this phenomenon are manifold and range from the application of a logic of appropriateness (Lewis 2005) to the multidimensionality of EU decision-making, logrolling, preference constellations, and diffuse reciprocity (see for instance Selck 2005; Mattila & Lane 2001; König & Junge 2009; Hayes-Renshaw et al. 2006; Elgström & Jönsson 2000).

In May 2004, this community way of life was subjected to an unprecedented shock – the accession of ten new members nearly doubled the actors surrounding the bargaining table. While the initial European Union contained only six member states – all from Western continental Europe – the EU slowly expanded to incorporate Northern, Southern, Scandinavian, and finally Eastern European states – ranging from the northern Baltic States to southern states such as Cyprus, Malta, and Bulgaria. Before Eastern enlargement occurred, many scholars questioned whether the EU would grapple with such an increase in numbers and diversity (cf. König & Bräuninger 2000; Zimmer et al. 2005; Baldwin et al. 1997; Bilbao et al. 2002; Baldwin & Widgrén 2005; Dobbins et al. 2004; Scharpf 2006). Veto player approaches argued that the core – the set of policy alternatives with an empty winset – would increase while the winset – the set of policy alternatives that can defeat the status quo – would shrink, reducing the options for policy change (e.g. König & Bräuninger 2004). Similarly the a priori voting power approach expected the passage probability – the theoretical likelihood by which new legislative acts can be adopted – to decrease (e.g. Baldwin & Widgrén 2003). It was questioned whether the EU's institutions, formal and informal, which so successfully managed to find unity in diversity prior to Eastern enlargement could do the job thereafter. Tsebelis and Yatağanas (2002: 304), for instance, concluded that “it will be almost impossible to alter the legislative status quo” and Baldwin and Widgrén (2004: 6) found that “the Nice Treaty rules cripple the EU's ability to act since they make it very difficult to find winning majorities” in an enlarged Union.

Prior to enlargement, the expectations were thus fairly pessimistic. Enlargement, however, has not seemed to interfere with the run of the mill – at least not as vividly as expected. While Leuffen & Hertz (2010) have found clear pre-enlargement anticipation effects on legislative output – no such effects can be detected in the aftermath of the accession of ten new member states (e.g. Dehousse et al. 2007; Best & Settembri 2008; Hagemann & De Clerck-Sachsse 2007; Hertz & Leuffen 2010a; for a summary see Pollack 2009). Naurin & Lindahl (2008), Mattila (2009), and Thomson (2009) find evidence for new coalition structures after enlargement. Eastern European countries form coalitions mainly with Southern European member states, especially when redistributive issues are at stake. According to the literature to date, these observed changes have, however, not impacted on the decision-making capacity of the Union. In terms of total numbers of legislative acts adopted no severe differences were found in regards to the pre-enlargement reference period (Hertz & Leuffen 2010a). We do, however, find that enlargement has slowed down decision-making (Hertz & Leuffen 2010b). Mattila (2009) does not find a change in voting behavior when studying Council roll call data after enlargement. According to voting records, the Council still makes most decisions by consensus. To a large degree, these findings don't fit pre-enlargement expectations. There seems to be a discrepancy between theoretical expectations and empirical findings.

Bailer et al. (2009) have argued that the sociological concept of adaptation might cushion the effects of Eastern enlargement. I argue below, that the new member states adaptation to the cooperative style of Council bargaining has two effects on EU decision-making in general. On the one hand it ensures the continued ability to adopt legislative acts in the first place, and thereby explains part of the observed discrepancy between theory and empirical findings to date. On the other hand, however, the adoption of the cooperative style of Council bargaining should slow down the decision-making process. Both of these implications are derived from the Procedural Compromise Model below. The next section discusses the concept of adaptation from a theoretical perspective.

Adaptation in the Context of Council Bargaining

The concept of adaptation has resurfaced in a variety of contexts, being applied in numerous ways. While it is central in terms of socialization processes for organization theory (e.g. Raven & Rubin 1976), sociological institutionalism (e.g. DiMaggio & Powell 1983), and constructivist approaches to international relations (e.g. Checkel 2005), it has also been

addressed within rationalist analyses. Waltz (1979) has, for instance, described socialization as the process by which states become alike in their application of Realpolitik – a spontaneous and unintended process. In other rationalist accounts of international relations adaptation occurs as a result of coercive power – for instance, smaller states are argued to follow practices consistent with the hegemony’s notion of international order (Ikenberry & Kupchan 1990). While rationalist institutionalism assumes actors’ identities and preferences to be exogenously given and practically stable, sociological institutionalism allows these to be changing over time, and constituted by social structures and interactions (Hall & Taylor 1996; Aspinwall & Schneider 2000). Neglecting the origins of preferences, rationalist accounts have focused on analyzing the behavior resulting from exogenously given preferences and institutional constraints. A large part of the literature has focused on explaining the emergence of cooperative behavior among egoists. I turn to this literature below.

In rational-choice theory, actors are assumed to maximize their utility. Generally, the literature explains cooperative behavior by reciprocate actions.¹ Direct reciprocity (Trivers 1971; Axelrod 1981, 1984; Axelrod & Hamilton 1981) and indirect reciprocity (Alexander 1979; Nowak & Sigmund 1998; Panchanathan & Boyd 2004) can lead to cooperative outcomes in two player games and sizeable groups. While direct reciprocity is described by the principle ‘You scratch my back and I scratch yours’ (Nowak & Sigmund 2005: 1291), indirect reciprocity refers to individuals helping others in order to uphold a reputation and so be included in future cooperation (Panchanathan & Boyd 2004:499). In both cases, cooperation should lead to positive returns, since for cooperation to emerge the benefits of cooperation which accumulate over time must exceed the temptation for defection (Axelrod 1984; Leimar & Hammerstein 2001: 745). For this to be the case, the same actors, who value the future, need to meet frequently and expect to be meeting in the future (the so called shadow of the future). In fact, the “very possibility of achieving stable mutual cooperation depends upon there being a good chance of a continuing interaction” (Axelrod 1981). If no future interaction is expected, cooperative behavior cannot emerge as a stable solution.

Both Boyd & Richerson (1988), who focus on direct reciprocity, and Suzuki & Akiyama (2005), focusing on indirect reciprocity, show, however, that cooperative actions become less likely as group-size increases. In the context of EU enlargement, this poses the question, whether the EU27 is simply too large to maintain cooperative behavior. Taking the theoretical analyses as a guideline, the predictions in terms of EU group-size are, however, not as pessimistic as one might think. In the application of Suzuki & Akiyama (2005: 1376), the EU

of 27 would lie at the borderline of a cooperative and a polymorphic society – according to which cooperative and uncooperative strategies coexist. Boyd & Richerson (1988) expect cooperation to increase in a group with 15 cooperators and 12 defectors. In the EU context, this would for instance be the case if all new member states acted uncooperatively, while the old member states continued to act cooperatively.

The concept of reciprocity has directly been applied to political decision-making in general (e.g. Miller 1977; Ferejohn 1986; Keohane 1986), and to the case of the European Union specifically. Within international relations direct reciprocity is referred to as specific reciprocity defined as “situations in which specified partners exchange items of equivalent value in a strictly delimited sequence” (Keohane 1986: 4), while indirect reciprocity is labeled diffuse reciprocity. Keohane (1986: 4) defines diffuse reciprocity as situations in which “the definition of equivalence is less precise, one's partners may be viewed as a group rather than as particular actors, and the sequence of events is less narrowly bounded”. Referring to Héritier (1996), Elgström & Jönsson (2000) note that the conditions for cooperation outlined by Axelrod are met by the EU Council of Ministers bargaining situation. In fact, consensual decision-making observed within the Council, has been related to specific (e.g. Mattila & Lane 2001; König & Junge 2009) and diffuse reciprocity (e.g. Elgström & Jönsson 2000; Jensen 2010). In the Council, the same actors, who value the future, meet frequently over a long period of time. Since this time period is at least theoretically endless – the EU is not expected to disintegrate – and the member states are rational political actors striving to obtain and maintain power, they value not only today's decisions but also the numerous decisions that will be passed in the future. From this premise, I formulate the following hypothesis.

Hypothesis 1: The new member states will adopt the cooperative style of Council bargaining if cooperative behavior leads to positive returns in the long run.

No rational-choice scholar would expect the new member states to adopt a behavior which reduces their returns in the long run. While the context of Council bargaining lays the foundation for cooperative behavior to lead to positive returns, the positive returns condition, as formulated in hypothesis one, has not yet been verified explicitly. Next to assessing the validity of hypothesis one, I therefore focus on verifying the positive returns condition in the empirical part of the paper below. I test this condition by comparing the returns of the new

member states from acting cooperatively and uncooperatively within the Council bargaining situation.

Adaptation is thus understood as a rational process driven by cost-benefit analyses, which are in turn influenced by the institutional setting (see also Schimmelfennig 2000, 2001, 2005). This understanding of adaptation has an additional implication on the speed by which the new member states should adopt the cooperative style of Council decision-making. In the context of EU enlargement, rational-choice theory expects that the new member states should adopt the cooperative style of Council decision-making immediately, if they expect to obtain higher returns from cooperation than from defection. Such an understanding of adaptation is in contrast with the long process of socialization, discussed for instance by Checkel (2005). In line with rational-choice theory and assuming that the positive returns condition in hypothesis one holds, I formulate my second hypothesis:

Hypothesis 2: The new member states will quickly adopt the cooperative style of Council bargaining.

When actors enter new contexts, they can make experiences which run contrary to their initial expectations. One could, for instance, imagine a country, expecting to benefit from cooperation, to experience the opposite for a certain period of time after accession. In such a case, cooperative action is merely based on future expectations and will be abandoned more frequently than once positive returns from cooperation have actually been reaped. I label the point at which such positive returns materialize, the point at which cooperative behavior “locks in”. Once cooperative behavior is “locked in”, it is no longer based only on future expectations, but also on self-made experiences. At this stage it becomes less likely for actors to abandon cooperative behavior. In the empirical part of the paper I analyze the period until “lock in” occurs. If “lock in” occurs after only a few rounds of negotiations, we can expect that new members had little incentives to act uncooperatively in the immediate aftermath of enlargement. I take this as an indication for new member states to have adapted quickly. Empirically, I assess hypothesis two at the micro and macro level. At the micro level, I assess the average number of issues that need to be discussed before a country constantly obtains higher returns from cooperation, i.e. the average time until cooperative behavior “locks in”. The average number of issues provides an indication for how long an actor must rely on future expectations before actually receiving positive returns from cooperation. An example illustrates the proceedings: Let’s say that member A is involved in following decisions: x, y,

z, where x is adopted before y and y is adopted before z. Let's furthermore assume that A obtains negative returns from cooperation for decision x, and positive returns from cooperation for decisions y and z. Now assume two scenarios. In scenario one the returns from cooperation are larger than the returns from defection if at least x and y are being discussed. In scenario two, the returns from cooperation are larger than the returns from defection, only if all three decisions are being discussed. In the latter scenario, the number of issues that need to be discussed before cooperative behavior is "locked in" is higher than in scenario one. Assessing the average number of issues that need to be discussed before a new member state constantly obtains positive returns from cooperation, therefore provides an indication for how likely it is that the new member states will have deviated from cooperative behavior in the aftermath of enlargement. The shorter the time period until cooperative behavior is "locked in", the less likely is uncooperative behavior on behalf of the new member states. If, however, the new member states deviate from cooperative behavior in the aftermath of enlargement, then one should be able to observe differences in model performances across time. At the macro level, I therefore, compare the model performances in the two years immediately following enlargement to the time period thereafter. After having discussed the concept of adaptation in the context of EU enlargement from a theoretical perspective, the following section introduces the research design and the dataset by which the two hypotheses are tested.

Research Design and Dataset

Most empirical enlargement research so far has focused on the aggregate level, such as the change in number of legislative acts passed and the time it takes to pass legislation (e.g. Best & Settembri 2008; Schulz & König 2000; König 2008; Golub 1999, 2002, 2007, 2008; Golub & Steunenberg 2007; Hertz & Leuffen 2008, 2010b). Some scholars have analyzed voting behavior within the Council after enlargement or implemented network analyses (Mattila 2009; Hagemann & De Clerck-Sachsse 2007; Naurin & Lindahl 2008). None of the existing studies focusing on enlargement has however assessed whether or not the new member states have adhered to the practices and rules of Council bargaining while accounting for actor preferences, their salience, and capabilities.² In an ideal world one could observe the behavior of the new member states in the Council bargaining process directly. If this were possible, one could assess adaptive processes after enlargement, by simply observing changes in the new member states actions at the Council level. Questions such as when do member states support

amendments of others within the bargaining process could be answered by simply monitoring the bargaining process. With the exception of voting records, which only relate to the final stage of the decision-making process, data on member state behavior within the Council is, however, unavailable. In order to analyze whether or not the new member states have settled in and to assess whether they have adopted the cooperative style of Council decision-making I, therefore, specify different versions of the Procedural Compromise Model presented by Hertz (2010). These model versions are based on different behavioral assumptions. More specifically, I include a second uncooperative actor strategy into the model, which when compared to the cooperative strategy initially included in the model, allows an assessment of behavioral adaptation by the new member states after enlargement. I use the predictive accuracy of the model at the macro-level, as an indicator for the validity of the behavioral assumptions made by the model at the micro-level.

In its initial version, the PCM assumes that bargaining resembles a cooperatively performed tug of war game in which each actor claims its share of influence on the final legislative outcome, while also granting others theirs (Hertz 2010). In the bargaining process each actor pulls the legislative outcome towards his preferred policy alternative. An actor's involvement in the negotiations being determined by its power, salience, and potential losses, if the draft discussed were to be adopted as it stands (see the Institutional Realism Model presented by Achen 2006b). An actor i 's salience s_i and its power capabilities v_i are thus central elements of the model (see Hertz 2010, Golub 2010). While common tug of war games result in the winner takes all outcomes, in the cooperative tug of war game, the actors acknowledge that others also have a legitimate case for influencing the final outcome. Within the context of the decision-making process, member state A supports member state B's changes to the initial legislative proposal because B will also support A's changes. Since this setting does not necessarily require immediately and connected exchanges – returned favors might also occur in the future and from a third country – diffuse reciprocity is the basis for cooperative outcomes in the Procedural Compromise Model. An actor who acts uncooperatively, however, by for instance making excessive demands (not in line with its power, salience and potential losses on the issue) will be 'punished' by cooperators voting down its amendments submitted during the negotiations.

Figure 1 illustrates the setup of the model. In the first step, the agenda setter – the Commission in the Consultation Procedure and the Parliament in the Codecision Procedure (I use the Parliament version according to Steunenberg & Selck 2006) – submits its proposal.³ It

is assumed that the agenda setter AS has an informational advantage, i.e. it does not reveal its ideal policy alternative but makes the proposal p^{AS} . The agenda setter calculates an expected outcome o_{AS}^e and then chooses its proposal p^{AS} , such that o_{AS}^e approaches the agenda setter's ideal policy alternative p_{AS}^* .⁴ In step two, Member States reveal their bargaining positions within the Council to the other Member States. Since they are acting cooperatively it is assumed that they reveal their ideal policy alternatives p^* . The actors therefore refrain from acting strategically. If the actors were to act strategically, they would not reveal their ideal policy alternative, but some bargaining position that would maximize their utility. In the following the Member States make amendments which pull the proposal in the direction of their preferred policy alternative. The strength, by which the actors pull, i.e. an actor's amendment, depends on the actor's salience, power, and potential losses.⁵ At step four, the member states vote on the amendments. The order of the vote is irrelevant, since it is assumed

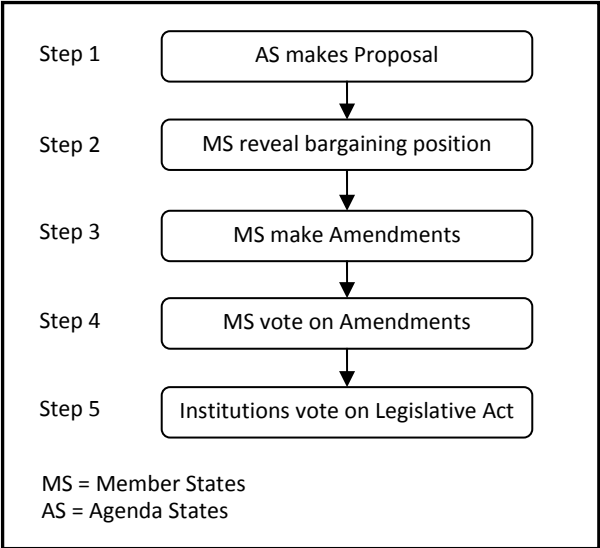


Figure 1: The Setup of the Procedural Compromise Model (PCM)

that all amendments are made simultaneously, i.e. the other actors do not reevaluate their amendments. The bargaining process is understood to be a simultaneous pushing and pulling until a final decision has been reached. At this stage member state i supports an amendment of another member state j , whenever j 's amendment is in line with its potential loss, power, and salience. In other words, no member will allow another member to dominate the process. In the final stage the legislative act is then passed by the relevant actors – the Member States in the Consultation Procedure and the Member States and the Parliament in the Codecision Procedure – by the corresponding legislative rule. It is assumed that an actor supports the legislative act if it felt that its position is reflected within the final outcome. The member

states claim that they should have an influence on the final outcome, but they accept that others will influence the outcome too. I label the actions described above by the cooperative strategy. This strategy mirrors the high level of commitment member states display within Council bargaining. In the application of the model to the DEU dataset containing pre-enlargement cases by Hertz (2010) all member states follow this cooperative strategy.

Have things changed after Eastern enlargement? Have the new member states adapted such cooperative behavior? In order to answer these questions and test the hypotheses formulated above, I introduce a second actor strategy into the model. This second actor strategy captures uncooperative, strategic behavior and is labeled the uncooperative strategy. Hypothesis one is tested by comparing the empirical performance of a model version in which all actors implement the cooperative strategy to a model version in which the new actors have not adapted to the cooperative style of Council bargaining and implement the uncooperative strategy. Additionally, the positive returns condition can be tested by comparing the utilities obtained by the actors from acting cooperatively and uncooperatively. Hypothesis two is, on the one hand, analyzed by assessing how many negotiation rounds are needed for the benefits of cooperation to outweigh the temptation of defection (time until cooperative behavior is “locked in”) and on the other hand by looking for differences in the model versions across time. All of these analyses hinge on introducing an uncooperative strategy, as a baseline scenario, to the cooperative context of the Procedural Compromise Model. Such an uncooperative strategy is described in the following paragraphs.

The uncooperative strategy

How would a self-orientated rationalist actor behave when entering a group that makes cooperative decisions? The actor will aim at influencing the final outcome in order to achieve the highest returns for herself. The uncooperative strategy therefore differs from the cooperative strategy in several respects. Actor i following the cooperative strategy has a bargaining position within the Council that equals her true preferences ($p_i^* = b_i^c$). Actor j following the uncooperative strategy chooses a different bargaining position within the Council ($p_j^* \neq b_j^c$) – he acts strategically. He chooses a bargaining position b_j^c which ensures that the expected outcome of the negotiations o_j^e is as close as possible to the actor’s ideal

policy alternative p_j^* . Formally,

$$b_j^c = \min |p_j^* - o_j^e| \quad (1)$$

with

$$o_j^e = \frac{s_{AS} v_{AS} p^{AS} + s_j v_j b_j^c + \sum_{i=1}^{N, j \& AS \in N} s_i v_i p_i^*}{\sum_{i=1}^{N, j \& AS \in N} s_i v_i} \quad (2)$$

Equation two makes two implicit assumptions. First, actors following the uncooperative strategy wait until all actors with the cooperative strategy have presented their bargaining position within the Council before revealing their own bargaining position b_j^c . This corresponds to interview accounts.⁶ Especially Poland was said to have the tendency to make demands and reveal its position at the latest possible time of the negotiations. Second, all uncooperative actors reveal their preferences at the latest possible moment, i.e. simultaneously. When assessing the expected outcome of the negotiations an uncooperative actor therefore does not possess any information on other uncooperative actors. These actors' bargaining positions therefore do not enter equation two. This means that if all actors follow the uncooperative strategy, none can formulate a meaningful expectation of the bargaining outcome and the best they can do is reveal their true preferences. In such a scenario, the bargaining position b_j^c is again equal to the most preferred policy alternative p_j^* .⁷ The power of the uncooperative actor to position himself in a self-benefiting way within the bargaining process at step two of the model is thus a direct result of the trust brought forward by the actors following the cooperative strategy.

At the amendment making stage of the model – step three – the uncooperative actor j plays the community game, knowing, however, that his bargaining position $b_j^c \neq p_j^*$. The influence granted to him by the cooperative actors therefore exceeds the influence actors following the cooperative strategy would grant, if they were aware of the uncooperative actor's true preferences p_j^* . At step four of the model an uncooperative actor will only support an amendment if it does not make him worse off. This behavior is equivalent to the behavior assumed by traditional procedural models (e.g. Crombez 1996; Steunenberg & Selck 2006). The uncooperative strategy, therefore, strongly differs from the cooperative strategy, whose followers will also support an amendment making them worse off, if the amendment is in line with the amendment-makers salience, power and potential losses. Cooperative actors support such an amendment because they believe that if they support an amendment today, their own

amendment will also be supported in the future. The same logic of action is applied to step 5 of the model, in which a final decision is reached on the legislative act. An actor following the uncooperative strategy will compare the final proposal to the reference point.⁸ He will only support the legislative act, if it does not make him worse off. The cooperative actor in contrast turns to the process by which the decision was reached and agrees to the final proposal if she believes that her position has been adequately taken into account. Compared to the PCM implemented by Hertz (2010) this final difference between the two strategies implies that once the uncooperative strategy is included in the model, information on the reference point is needed to empirically evaluate the model.

Including the uncooperative strategy into the PCM renders an additional assumption necessary. The order in which the amendments are voted upon at step four is no longer irrelevant, since a rational actor might vote in favor of amendment A if amendment B was passed previously but against, if B is only voted upon after the vote on amendment A. It is therefore assumed that the order in which the amendments are voted upon at step four is randomized. In order to minimize the effect of this randomization, 1000 runs with different random seeds of the model versions including the uncooperative strategy are run. In the results section I present the mean error of these runs as well as the min and max errors observed.⁹

In the following, several versions of the PCM are tested empirically and compared to each other. The first assumes that all new member states adapted to the community style of decision making. Here all actors follow the cooperative strategy (version one). In the second it is assumed that the new member states have not adopted the community style of decision-making but have applied uncooperative behavior within EU bargaining. Here all new member states adopt the uncooperative strategy, while the old members stick to their original cooperative strategy (version two). Comparing the empirical fit of model versions one and two, assesses whether or not the new member states have adapted to the Community style of decision-making. A third version of the model is tested, in which only Poland – based on newspaper headlines and interview accounts – acted uncooperatively within Council bargaining. In this version of the model all actors except Poland apply the cooperative strategy. Additionally, I compare the average utilities obtained by the new member states from acting cooperatively (model version one) and from acting uncooperatively (model version two). The analysis investigates whether the positive returns condition holds in the context of Council decision-making after enlargement. In a second step, I assess hypothesis

two, which postulates a fast adoption of cooperative behavior on the part of the new member states, at the micro and macro level. At the micro level, I assess how many negotiation rounds are necessary for the benefits of cooperation to outweigh the incentives for defection at any point in the future. If few negotiation rounds are necessary, the new member states have had few incentives to deviate from the cooperative style of Council decision-making and will most probably have adapted quickly. If many negotiation rounds are necessary, it is less likely that the new member states have adapted quickly, since they have had more incentives to act uncooperatively. At the macro level, I assess whether I find differences in model performances between the time period directly following enlargement and the time period two years on. Version one and version two of the model are run on subsets of the dataset. The first subset covers issues adopted in the two years directly following Eastern enlargement (2005, 2006) and the second subset, acts adopted in the time period thereafter (2007-2009). If no differences in model performances across time are found and model version one outperforms model version two, new member states have quickly adapted to the cooperative style of Council bargaining.

The Dataset

The dataset on which these model versions are tested is an extension of the DEU dataset (Thomson et al. 2006). The original DEU dataset covers 174 issues and 70 Commission proposals adopted between January 1999 and December 2000. An issue is defined as a controversial point of discussion within the bargaining process. The two most opposing positions in the discussions are classified at zero and 100 of the issue scale. All other actors' most preferred policy alternatives are then identified within this issue space. The dataset contains information on the Commission, the European Parliament, and the Member States positions, salience, and capabilities and the final negotiation outcome as well as the reference point of the discussions. Two legislative procedures – the Consultation and Codecision Procedures – and three types of legislative acts – regulations, decisions, and directives – are covered. The information contained within the dataset was obtained by semi-structured interviews with experts in Brussels.

Several scholars have extended this unique dataset on EU decision-making to a time period after Eastern enlargement in 2004 (Hertz 2006; Arregui & Thomson 2009; SNF Research Project: “Does Group Size Matter...” at ETH Zurich). The procedure by which the legislative

acts were selected for the extended DEU dataset, which I here label DEU II dataset, is identical to the selection process for the pre-enlargement cases. Three criteria were applied: the time period in which they were adopted, the procedure by which they were adopted, and the degree of controversy within the bargaining process (Arregui & Thomson 2009). In the extended DEU dataset used here, all acts were approved after the accession of 10 new Member States in 2004. The acts were adopted by the Consultation or Codecision Procedure. To capture political importance and controversy within the bargaining process, news services, such as European Voice or Agence Europe, had to report on the legislative acts (see Thomson & Hosli 2006b for further details).

The extended dataset contains information on the negotiations of 54 proposals and 159 controversial issues. The controversial issues, as well as the positions, outcome, reference point and salience of the actors were identified by experts in Brussels in semi-structured interviews. 111 controversial issues were provided by Robert Thomson (see Arregui & Thomson 2009).¹⁰ Information on the other 48 controversial issues was collected in the context of the SNF funded research project “Does group size matter? European governance after enlargement” at the ETH Zurich.¹¹ The semi-structured interviews were conducted mainly with experts from the Member States Permanent Representations, but also from the Commission, and Council Secretariat. In general, the interviews lasted between 1 and 1½ hours. For the sake of increasing reliability several interviews were conducted for every proposal. I refrain from presenting a more complete discussion of the specificities of the dataset and how it was collected, since the collection process is equivalent to the process applied by Thomson et al. (2006) and Arregui & Thomson (2009). Due to missing values – mainly on the reference point variable – the number of controversial issues used for the analysis reduces to 119. In the application below this post enlargement dataset is divided into two subsets, the first time period (T1) contains all issues which were adopted in the years 2005 and 2006. It includes 26 controversial issues discussed in Brussels. The second time period (T2) contains all issues which were adopted in the years 2007 to 2009 and includes 93 controversial issues. Figure 2 plots the issues over time and shows that the bulk of issues available for the analyses fall into the period from summer 2007 to spring 2009.



Figure 2: Distribution of Issues across Time by Date of Adoption

The issues included in the dataset range from decisions on reducing fishing opportunities in certain fishing grounds to regulating EU wide air-traffic. The issues resemble everyday decision-making, not landmark decisions of EU integration. The behavior of the new member states is, therefore, addressed within the context of day-to-day decisions made in Brussels. As Thomson & Hosli (2006b) have argued, however, these ‘small’ decisions are an important, incremental part of EU integration. They touch on practically all aspects of EU citizens’ lives and are essential for an understanding of how the EU functions. Focusing on day-to-day decision-making rather than high-profile cases therefore enables me to study how the new member states have handled EU bargaining in general and not how they have treated special cases of high importance (e.g. negotiations of the Lisbon Treaty).

In the *Decision-making in the European Union* project (Thomson et. al. 2006) capabilities are partly measured by an a priori voting power index, the Shapley-Shubik Index (Shapley & Shubik 1954). The Shapley-Shubik Index (SSI) is calculated by assessing the number of times an actor is pivotal, i.e. it turns a losing coalition into a winning coalition given its number of votes and the decision-making rule. The SSI of an actor is then the number of times an actor is pivotal divided by the total number of times all actors are pivotal. The DEU dataset contained two versions of the SSI for the four different procedures, the QMV and unanimity versions of the Consultation Procedure and the QMV and unanimity versions of the Codecision Procedure. In the first version, it was assumed that the Commission needs to be a member of a coalition for the coalition to be a winning coalition. The second version, which was used for the model predictions presented by Thomson et al. (2006), is solely based on the institutional rules of the decision-making process. In this version, the Commission is not necessarily a member of a winning coalition. In the Consultation Procedure, for instance, a unanimous Council can overrule the Commission. Table 1 in the appendix presents the SSI indexes used by Thomson et al. (2006). Table 2 in the appendix presents the equivalent – newly established for the purpose of this analysis – SSI indexes for the EU25 and Table 3 for the EU27. A comparison of pre- and post-enlargement values indicates that the Commission and the European Parliament have both lost powers in favor of the Council due to enlargement.¹² In the empirical application below I use the second version of the Shapley-Shubik Index for the post enlargement period, also used in Thomson et al. (2006).

Results

Figure 3 displays the mean absolute error for the three model versions. The mean absolute error calculates the average error of a model version for all 119 issues on which the bargaining outcome was predicted (cf. Achen 2006a). The mean absolute error of the cooperative model (version one) is 24.1. The mean absolute error for the uncooperative model (version two) is substantially larger: 30.8. The difference is statistically significant at a 0.01 significance level.¹³ This result suggests a behavioral conformance on the side of the new member states. It seems that the new member states have adopted the cooperative behavior of the old member states within day-to-day Council bargaining after enlargement. They have adopted the community way of decision-making. Model version three in which only Poland has failed to adapt to the community style of Council bargaining predicts more accurately than model version two and, more importantly, less accurately than model version one. The latter difference in accuracy is statistically significant at a 0.05 significance level. Despite the many headlines of Poland acting inappropriately within Council negotiations in the years following enlargement, I find no evidence that on average, Poland has acted differently than the other member states.

The results in Figure 3, presented for the model versions two and three, are based on a single random seed. Although theoretically these results are therefore unreliable, Figure 4 shows that the empirical performance of model versions two and three are only marginally affected by the order in which the amendments are voted upon at step four of the model. The results of Figure 4 are derived by implementing 1000 runs of the models with different random seeds. The difference between the minimum and maximum mean average errors observed in these 1000 runs is extremely small and the average mean absolute error over these 1000 runs is not much different to the results presented in figure two. The results presented in Figure 3 are therefore a reliable reflection of the true fit of the models.

After having compared the performance of different model specifications, I will now assess whether the new member states obtain positive returns when switching from uncooperative to cooperative behavior. I do so by comparing the utility levels obtained by each actor for the predicted outcome of model version one with the utility levels obtained for the predicted outcome of model version two.¹⁴ In the first model version the actors act cooperatively and, as Figure 5 shows, obtain substantially higher utility levels than when acting uncooperatively. While, all new member states gain from acting cooperatively and in fact old member states

gain too¹⁵, only the two supranational institutions, the Commission and the EP face utility losses when the new member states adapt to the cooperative style of Council bargaining. The reason for this latter finding is simple. When the new member states act uncooperatively, a lot of energy within the Council is wasted for making amendments which are in turn rejected. The Council is less effective in actually altering the proposal presented by the Commission. It might, however, still vote in favor of the proposal, because amendments tend to require

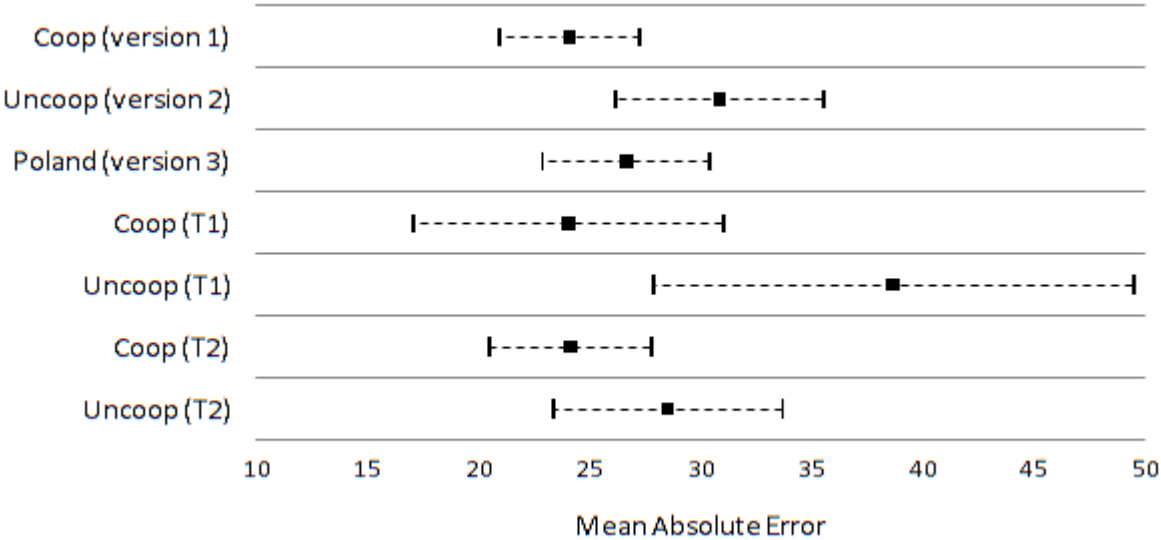


Figure 3: Empirical Results. Mean Absolute Errors presented with 95% confidence intervals. The results for model versions two and three are based on a single random seed. Figure 4 illustrates average results for different random seeds. The difference between the results is marginal.

unanimity, while the final act can frequently be adopted by qualified majority voting. This leads to higher utilities for the Commission and the EP, whose preferences are often in line with those of the Commission (Thomson et al. 2004; Thomson 2009).¹⁶ Put differently, whenever the Council members act cooperatively, the shift of the inter-institutional power distribution in favor of the Council, identified by the Shapley-Shubik Index for the post-enlargement period, can be materialized into effective utility gains. These results indicate that the positive returns condition for a rationalist reading of adaptive processes after Eastern enlargement holds. New member states have no incentive to act uncooperatively in the long run. They obtain higher utilities when following the cooperative style of Council bargaining observed prior to Eastern enlargement. Adaptation can therefore be explained by assuming rational, utility maximizing actors. Diffuse reciprocity as the implicit mechanism operationalized by the model, fosters cooperation even after Eastern enlargement. The actors act cooperatively and trust in the cooperative system in place to generate utility gains – which

it does. In this system, each actor claims his influence on the final outcome while granting others theirs and believes that in the long run these claims not only even out but lead to mutual benefits.

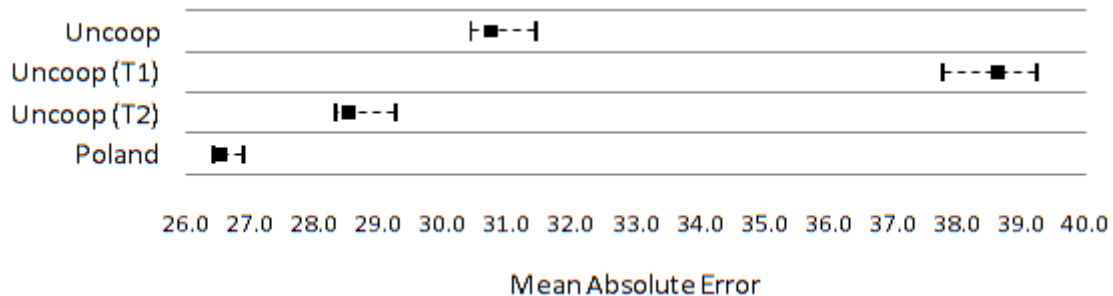


Figure 4: Batch Runs. The figure shows the average MAEs over 1000 runs with different random seeds. The dotted lines link the min and max MAEs observed for the 1000 runs.

Finally, hypothesis two is analyzed at the micro and macro level. At the micro level I assume that each discussed issue resembles one negotiation round. I order all issues according to their date of adoption and then calculate the average number of issues that need to be discussed before the expected utility of acting cooperatively for all future time periods is positive. Assume, for instance, that after the first negotiation round Slovenia obtains negative returns from cooperation. At this stage cooperative action is merely based on future expectations, while no real positive returns from cooperation have been received. If in the second negotiation round, Slovenia receives positive returns from cooperation, but these do not outweigh the negative returns received from the first round, Slovenia still relies on positive future expectations, when acting cooperatively. If however, after the third negotiation round and after all subsequent negotiation rounds, the returns from cooperation are positive, then cooperative behavior has been “locked in”.¹⁷ It is now backed by positive experiences. I conduct such an assessment for all new member states and reiterate the process. In the first iteration of the process, I begin with issue one and assess how many issues need to be adopted before the expected utility turns positive and remains positive for all future negotiation rounds. In the second iteration, I drop issue one and start with issue two, recalculating the expected utility. I then take average values over all iterations. This procedure ensures that the results are independent of issue specific preference constellations. The expected utilities are calculated with a discount factor of one. The discount factor can therefore be regarded as the probability of future interaction (Axelrod 1981: 308).

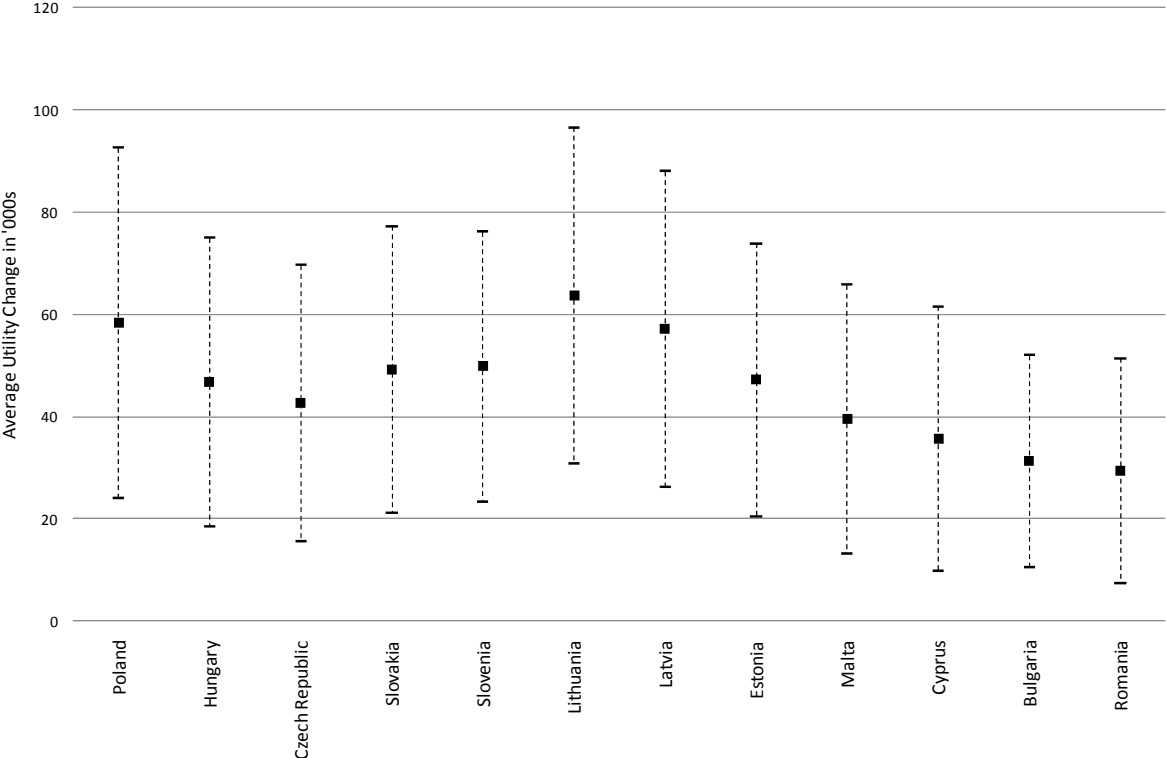


Figure 5: Average utility changes of new member states when switching from non-cooperative to cooperative behavior (over all relevant issues). Dotted lines show 95% confidence intervals.

The results of this analysis are displayed in Figure 6 and support hypothesis two. On average the ten new member states, which acceded in 2004, faced continuous positive returns from cooperation after only six to seven negotiation rounds. In the case of Romania and Bulgaria 12 to 15 negotiation rounds were necessary. In general, and taking into account the numerous acts adopted in Brussels every month, it is therefore highly likely that the new member states have adopted the cooperative bargaining style immediately. They have had little incentives to act uncooperatively. The results in Figure 6 illustrate that the preference constellations strongly favor cooperation. At the macro level, these findings are supported by the analyses of the models over the two subsets ranging from 2005-2006 and 2007-2009. As Figure 3 illustrates, no differences, in terms of cooperative behavior, can be observed over these two periods.¹⁸ The empirical analysis, therefore, supports hypothesis two. The new member states seem to have adopted the cooperative style of Council decision-making quickly.

In the above analysis of hypothesis two at the micro level, I have assumed that the new member states know what will happen in the future and can form their expectations under certainty. Reality is surely different. If the new member states question at day one whether

cooperation pays out, they might not wait until it actually does. There are two reasons to believe that such a scenario is highly unlikely. First, Figure 6 shows that uncooperative behavior only produces positive returns for a few consecutive rounds of negotiations. Second, Leuffen & Hertz (2010) have found that acts, which have been adopted in anticipation of Eastern enlargement, remain within the decision-making process for a longer period of time. We argue that old member states will adopt legislation, initially scheduled for adoption after enlargement, before enlargement takes place. The old member states want to avoid negative effects on the decision outcome, once the new member states have entered. Taking duration as a proxy for controversy, I argue that old member states have focused on adopting controversial acts before Eastern enlargement, which possibly had an additional impact on post enlargement decision-making, not discussed by Leuffen & Hertz (2010). Avoiding discussions on controversial dossiers in the immediate aftermath of enlargement can foster cooperative behavior on sides of the new member states, by guaranteeing that the new member states make positive experiences directly after enlargement, i.e. reducing the time until cooperative behavior “locks in”.

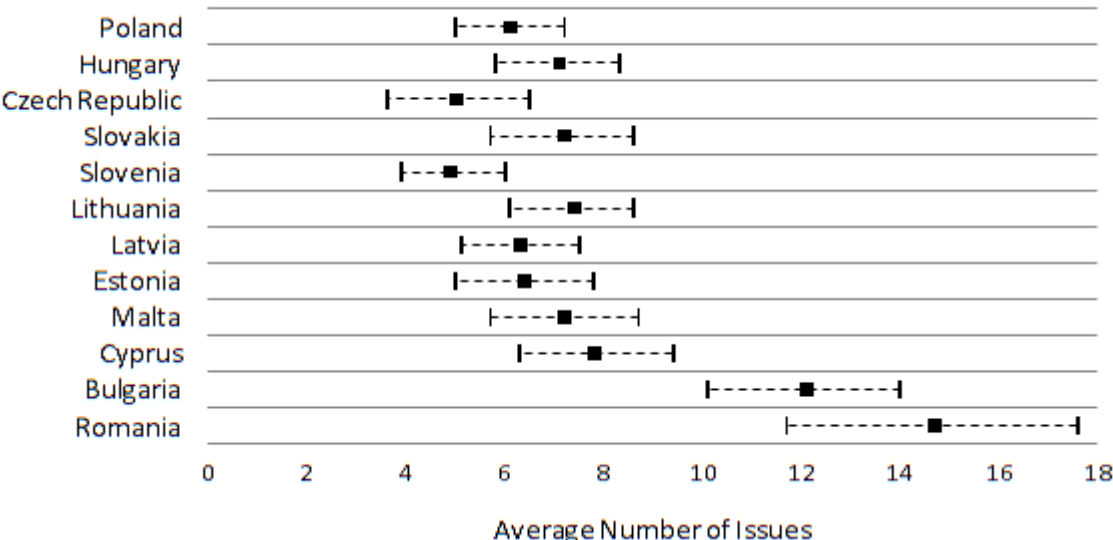


Figure 6: Average Time until “lock in”. The figure displays the average number of issues that need to be negotiated before the expected utility of cooperation turns positive for all future time steps. The dotted lines resemble the 95% confidence intervals. The lower the number of issues, the lower the likelihood that an actor will have deviated from cooperative behavior.¹⁹

Conclusion

In this article I have analyzed the behavior of the new member states within the Council of Ministers after Eastern enlargement in a semi-quantitative fashion. An extended DEU dataset,

which includes information on Council bargaining situations after Eastern enlargement, was utilized to compare several versions of the Procedural Compromise Model. While one version included new members acting uncooperatively, another version assumed that all members adapted to the cooperative community way of life. This latter version clearly outperforms all other model versions. In line with Mattila (2009), the data supports the claim that the new member states have adapted to the cooperative style of Council bargaining. They have done so to reap the benefits from cooperation. The analysis has shown that cooperative action constantly produces higher levels of utility than uncooperative action. Cooperation within the post-enlargement Council can therefore be explained by rational utility-maximizing actors. These results support a rational-institutionalist interpretation of EU decision-making. The institutional set-up and preference constellations provide strong incentives for the new member states to adapt to the cooperative style of Council bargaining.

Analyzing the number of negotiation rounds needed before new member states continuously face positive returns from cooperation has shown that preference constellations quickly “lock in” cooperative behavior. For most countries the incentives to cooperate dominated the incentives for uncooperative behavior after less than ten negotiation rounds. In line with this finding, I cannot detect any structural changes in the two years following enlargement, when compared to issues adopted in the period from 2007 to 2009. The new member states acted cooperatively over the entire time span covered by the dataset. While rational-choice theory predicts immediate changes in behavior once new information becomes available, socialization processes tend to work over different time frames. As Schimmelfennig (2005: 831) notes, “however, behavioral change will typically precede internalization, and behavioral conformance will persist for an extended period of time without internalization”. While I have shown that the new member states act rationally when acting cooperatively, this does not exclude the possibility for socialization processes to impact on the new member states preferences, habits, and behaviors at later stages.

What do these findings mean for the EU decision-making process in general? What are the implications of cooperative action for the EU’s ability to make decisions, and by what speed? Two expectations follow from the results presented above and the Procedural Compromise Model’s setup in general. First, I expect that adaptation has cushioned the impact of Enlargement on the EU’s ability to make decisions. While several scholars expected winsets to shrink and cores to grow, the adoption of the cooperative style of Council bargaining on behalf of the new member states, should reduce the impact of increased preference

heterogeneity and a higher number of members on legislative output. This follows directly from the Procedural Compromise Model. While the Council votes down some Commission proposals in the model version assuming uncooperative new member states, this is not the case in the version assuming cooperative behavior. In the latter version – like in the Compromise Model – all Commission proposals are adopted. Take for instance the example of proposal COM (2008) 428 for a Council directive amending directive 2006/112/EC as regards reduced rates of value added tax. One issue discussed within the negotiations of this directive, was whether a reduced rate of the value added tax should apply for some intensive services of labor. Countries like Austria, Denmark, Latvia, Lithuania, and Germany were in favor of the reference point, namely against implementing reduced rates of value added tax for intensive services of labor. Since the directive was adopted by the unanimity version of the Consultation Procedure, Latvia and Lithuania would have voted down the issue in the uncooperative version of the model. The directive would not have been adopted. In the cooperative version of the model, however, a compromise solution is found and the directive is successfully approved. Compared to uncooperative behavior, cooperative behavior on the part of the new member states therefore leads to an increase in legislative output at the macro level of the model, cushioning the impact of enlargement. These expectations are in line with the findings of Hertz & Leuffen (2010a), who do not detect a reduction in the number of legislative acts adopted after enlargement. A more complete analysis of the link between cooperative behavior and legislative output – quantitatively and qualitatively – would of course entail a dataset that covers proposals which were not adopted, for instance withdrawn from the legislative process by the Commission. At the preference and salience level, such a dataset is, however, not available to date.

Second, I expect that the adoption of the cooperative style of Council bargaining on behalf of the new member states should slow down EU decision-making. If one attaches duration to every step of the Procedural Compromise Model – proposing an amendment and voting on amendments should take time – then the slowing down of the EU decision-making process after enlargement results directly from the results obtained above. In relation to the issue of group-size, more members mean higher number of amendments, which ultimately should prolong the decision-making process. When comparing the extremes, a switch from all actors acting uncooperatively to all actors acting cooperatively the impact on decision-making time becomes most evident. If all actors act uncooperatively and this is known by the agenda setter, the agenda setter will make a proposal that cannot be altered by the legislative bodies, while

maximizing its own utility. In such a case the model resembles pure procedural models of EU decision-making. Knowing that amendments will not be successful, the member states will refrain from making amendments in the first place. The decision-making process collapses to a one shot game. The agenda setter makes a proposal which is adopted by the legislative bodies. If all actors choose to act cooperatively, however, bargaining in form of amendment making and voting actually occurs. Because the member states act cooperatively, they can alter the agenda setter's proposal in the first place. This should lead to an increase in decision-making time. Consequently, I expect an increase in decision-making time to accompany the new member states adoption of the cooperative style of Council bargaining. Hertz & Leuffen (2010b) support this expectation empirically, by finding that the decision-making process has in fact slowed down after Eastern enlargement.

Finally, it is important to note that the analysis presented here has exclusively focused on the endpoint of adaptation. Adaptive processes, however, do not start from nowhere. Actors who enter existing institutions bring with them their own experiences from for instance the membership of another institution. These experiences, will ultimately affect the adaptive process. In a rationalist framework, they might have an impact on the individual actor's utility function. By neglecting the starting point of the adaptive process, I refrain from assessing the magnitude of adaptation, which surely varies from country to country. A country which is acquainted with democracy, and has participated in several international institutions cooperatively, will face less challenges adapting to the cooperative bargaining style of the Council than a country which has little democratic experience and has exhibited uncooperative behavior in the past. Future research, might take on board the initial conditions of the individual actors, which will lead to the formulation of a large number of additional, testable hypotheses.

Appendix

The tables below present the Shapley-Shubik Values for the individual member states and the European Institutions. For the calculations of the different versions of the index following winning coalitions were implemented (the definitions of the winning coalitions are taken from the DEU dataset): A: winset = {CM(QM),EP,C}; B: winset = {CM(QM),EP,C},{CM(QM),EP}; C: winset = {CM(UN),EP,C}; D: winset = {CM(UN),EP,C},{CM(UN),EP}; E: winset = {CM(QM),C}; F: winset = {CM(QM),C},{CM(UN)}; G: winset = {CM(UN),C}; H: winset = {CM(UN),C},{CM(UN)}.

	COD QMV	COD QMV	COD UN	COD UN	CNS QMV	CNS QMV	CNS UN	CNS UN
	A	B	C	D	E	F	G	H
Germany	0.058	0.081	0.059	0.063	0.081	0.085	0.063	0.067
France	0.058	0.081	0.059	0.063	0.081	0.085	0.063	0.067
Italy	0.058	0.081	0.059	0.063	0.081	0.085	0.063	0.067
UK	0.058	0.081	0.059	0.063	0.081	0.085	0.063	0.067
Spain	0.047	0.066	0.059	0.063	0.066	0.070	0.063	0.067
Belgium	0.027	0.038	0.059	0.063	0.038	0.042	0.063	0.067
Greece	0.027	0.038	0.059	0.063	0.038	0.042	0.063	0.067
Netherlands	0.027	0.038	0.059	0.063	0.038	0.042	0.063	0.067
Portugal	0.027	0.038	0.059	0.063	0.038	0.042	0.063	0.067
Austria	0.022	0.031	0.059	0.063	0.031	0.035	0.063	0.067
Sweden	0.022	0.031	0.059	0.063	0.031	0.035	0.063	0.067
Denmark	0.017	0.024	0.059	0.063	0.024	0.028	0.063	0.067
Finland	0.017	0.024	0.059	0.063	0.024	0.028	0.063	0.067
Ireland	0.017	0.024	0.059	0.063	0.024	0.028	0.063	0.067
Luxembourg	0.010	0.014	0.059	0.063	0.014	0.018	0.063	0.067
Commission	0.254	0.000	0.059	0.000	0.310	0.248	0.063	0.000
EP	0.254	0.310	0.059	0.063	0.000	0.000	0.000	0.000
Council	0.491	0.690	0.882	0.938	0.690	0.752	0.937	1.000

Table 1: Shapley-Shubik values for the EU15 (*The European Union Decides* project)

	COD QMV	COD QMV	COD UN	COD UN	CNS QMV	CNS QMV	CNS UN	CNS UN
	A	B	C	D	E	F	G	H
Germany	0.050	0.068	0.037	0.038	0.068	0.070	0.038	0.040
UK	0.049	0.067	0.037	0.038	0.067	0.069	0.038	0.040
France	0.049	0.067	0.037	0.038	0.067	0.069	0.038	0.040
Italy	0.049	0.067	0.037	0.038	0.067	0.069	0.038	0.040
Spain	0.045	0.062	0.037	0.038	0.062	0.063	0.038	0.040
Poland	0.045	0.062	0.037	0.038	0.062	0.063	0.038	0.040
Netherlands	0.020	0.028	0.037	0.038	0.028	0.029	0.038	0.040
Greece	0.018	0.025	0.037	0.038	0.025	0.027	0.038	0.040
Belgium	0.018	0.025	0.037	0.038	0.025	0.027	0.038	0.040
Portugal	0.018	0.025	0.037	0.038	0.025	0.027	0.038	0.040
Czech Republic	0.018	0.025	0.037	0.038	0.025	0.027	0.038	0.040
Hungary	0.018	0.025	0.037	0.038	0.025	0.027	0.038	0.040
Sweden	0.015	0.021	0.037	0.038	0.021	0.022	0.038	0.040
Austria	0.015	0.021	0.037	0.038	0.021	0.022	0.038	0.040
Slovakia	0.010	0.014	0.037	0.038	0.014	0.016	0.038	0.040
Denmark	0.010	0.014	0.037	0.038	0.014	0.016	0.038	0.040
Finland	0.010	0.014	0.037	0.038	0.014	0.016	0.038	0.040
Ireland	0.010	0.014	0.037	0.038	0.014	0.016	0.038	0.040
Lithuania	0.010	0.014	0.037	0.038	0.014	0.016	0.038	0.040
Latvia	0.006	0.008	0.037	0.038	0.008	0.010	0.038	0.040
Slovenia	0.006	0.008	0.037	0.038	0.008	0.010	0.038	0.040
Estonia	0.006	0.008	0.037	0.038	0.008	0.010	0.038	0.040
Luxembourg	0.006	0.008	0.037	0.038	0.008	0.010	0.038	0.040
Malta	0.006	0.008	0.037	0.038	0.008	0.010	0.038	0.040
Cyprus	0.004	0.006	0.037	0.038	0.006	0.008	0.038	0.040
Commission	0.243	0.000	0.037	0.000	0.292	0.253	0.038	0.000
EP	0.243	0.292	0.037	0.038	0.000	0.000	0.000	0.000
Council	0.513	0.708	0.926	0.962	0.708	0.747	0.962	1.000

Table 2: Shapley-Shubik values for the institutions and member states of EU decision-making for the EU25 (own calculations)

	COD QMV	COD QMV	COD UN	COD UN	CNS QMV	CNS QMV	CNS UN	CNS UN
	A	B	C	D	E	F	G	H
Germany	0.048	0.064	0.034	0.036	0.064	0.065	0.036	0.037
UK	0.048	0.064	0.034	0.036	0.064	0.065	0.036	0.037
France	0.048	0.064	0.034	0.036	0.064	0.065	0.036	0.037
Italy	0.048	0.064	0.034	0.036	0.064	0.065	0.036	0.037
Spain	0.044	0.059	0.034	0.036	0.059	0.060	0.036	0.037
Poland	0.043	0.058	0.034	0.036	0.058	0.060	0.036	0.037
Romania	0.021	0.029	0.034	0.036	0.029	0.030	0.036	0.037
Netherlands	0.019	0.026	0.034	0.036	0.026	0.028	0.036	0.037
Greece	0.018	0.024	0.034	0.036	0.024	0.026	0.036	0.037
Belgium	0.018	0.024	0.034	0.036	0.024	0.026	0.036	0.037
Portugal	0.018	0.024	0.034	0.036	0.024	0.026	0.036	0.037
Czech Republic	0.018	0.024	0.034	0.036	0.024	0.026	0.036	0.037
Hungary	0.018	0.024	0.034	0.036	0.024	0.026	0.036	0.037
Sweden	0.015	0.020	0.034	0.036	0.020	0.021	0.036	0.037
Austria	0.015	0.020	0.034	0.036	0.020	0.021	0.036	0.037
Bulgaria	0.015	0.020	0.034	0.036	0.020	0.021	0.036	0.037
Slovakia	0.010	0.014	0.034	0.036	0.014	0.015	0.036	0.037
Denmark	0.010	0.014	0.034	0.036	0.014	0.015	0.036	0.037
Finland	0.010	0.014	0.034	0.036	0.014	0.015	0.036	0.037
Ireland	0.010	0.014	0.034	0.036	0.014	0.015	0.036	0.037
Lithuania	0.010	0.014	0.034	0.036	0.014	0.015	0.036	0.037
Latvia	0.006	0.008	0.034	0.036	0.008	0.009	0.036	0.037
Slovenia	0.006	0.008	0.034	0.036	0.008	0.009	0.036	0.037
Estonia	0.006	0.008	0.034	0.036	0.008	0.009	0.036	0.037
Luxembourg	0.006	0.008	0.034	0.036	0.008	0.009	0.036	0.037
Malta	0.004	0.006	0.034	0.036	0.006	0.007	0.036	0.037
Cyprus	0.006	0.008	0.034	0.036	0.008	0.009	0.036	0.037
Commission	0.232	0.000	0.034	0.000	0.275	0.239	0.036	0.000
EP	0.232	0.275	0.034	0.036	0.000	0.000	0.000	0.000
Council	0.536	0.725	0.931	0.964	0.725	0.761	0.964	1.000

Table 3: Shapley-Shubik values for the institutions and member states of EU decision-making for the EU27 (own calculations)

Notes

1. I neglect the concept of clustering, since it does not apply to the EU context (see for instance Axelrod 1981).
2. In an excellent contribution Hoyland & Hansen (2010) have combined voting records with the DEU dataset in order to measure the strength of the consensus norm across countries. They, however, focus exclusively on the old member states, disregarding behavioral patterns of the new members.
3. Hertz (2010) implements this version of the Codecision Procedure, since it performs most accurately in the empirical analysis of Steunenberg & Selck (2006).

4. It is assumed that the agenda setter is aware of the preferences of the member states. This is a common assumption in procedural models of EU decision-making (e.g. Crombez 1996).
5. The share of influence is defined by $inf_i = \frac{s_i v_i (|p_i^* - p_{AS}|)}{\sum_{j=1}^N s_j v_j}$ (see Van den Bos 1991).
6. Interviews were conducted in the process of collecting the extended DEU dataset.
7. If all actors act uncooperatively, and the agenda setter assumes uncooperative behavior (not implemented here), within the Council, then the Procedural Compromise Model in fact approaches the classical procedural models.
8. The reference point is the state that would prevail if a legislative act is rejected. In most cases the reference point equals the status quo, but does not need to do so (Thomson & Hosli 2006b).
9. Implicitly the PCM without the uncooperative strategy also includes the assumption of randomness, since all amendments are submitted simultaneously. Unlike in the version with the uncooperative strategy, however, this assumption does not influence the outcome of the model.
10. Some of the 111 issues provided by Robert Thomson are issues collected by the author for his master's thesis at the Graduate Institute of International Studies in Geneva.
11. SNF project number: 100012-120772.
12. The reason for this is that after enlargement power is distributed over more actors. Take for instance, the simple example of the unanimity version of the Consultation Procedure and the version of the SSI for which the Commission is assumed to be part of all winning majorities. Here all actors are equally powerful, the Commission being as powerful as a single member state. Since there are more member states after enlargement than before and the Shapley Shubik Index sums to one, the power value for the Commission decreases, while that for the Council, the sum of all member state power values, increases. For a discussion of inter-institutional power distributions see Thomson & Hosli (2006a) and Bailer (2005).
13. The statistical significance is calculated by a Wilcoxon signed-rank test and is confirmed by a one and two-tailed t-test.
14. Utilities are calculated by following utility function: $u_i(x) = -s_i |x_i^* - x|^2$. Here s_i is the salience, x_i^* is the preferred policy outcome of actor i and x is the predicted outcome (based for instance on Achen 2006b). The results do not depend on utilities being quadratic in the distance between the preferred policy outcome and the predicted outcome.
15. All average returns obtained by the old member states when the new switch from acting uncooperatively to acting cooperatively are positive.
16. Thomson (2009) differentiates the alignment of the Commission and EP by policy fields. Although he still finds that the Commission and EP have similar preferences in various policy fields, their preferences diverge in others. In the case of issues concerning the levels of financial subsidies Thomson (2009), for instance, finds less convergence between the positions of the two supranational institutions.
17. The analysis reveals that once accumulated returns of cooperation over the different bargaining rounds have turned positive, they rarely turn negative again. If they do, I continue calculating the accumulated returns until they turn positive for all subsequent negotiation rounds.
18. If at all, although not statistically significant, the new member states have started questioning their cooperative behavior in the second time period, in which the uncooperative model does better than in the first time period. Given the few issues in the first time period, this however might be the result of issue specific characteristics.

19. The numbers are slightly downward biased, since cases which didn't converge to cooperative behavior were dropped. If they are included by for instance inserting the maximum number of issues as a proxy, the values are slightly higher: Poland for instance then faces 9 average number of issues before cooperative behavior “locks in”, Hungary 10, and Malta slightly above 8. The overall findings are not affected.

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Conclusion

After half a century of separation, Eastern enlargement has at least formally, unified the European continent. It has been an unprecedented event within the European Union's integration process. Never before, have more new members entered the Union at the same time. Never before, has the diversity amongst the newly accepted member states and between the newly accepted and the old member states been greater than in the case of Eastern enlargement. Before enlargement proceeded in May 2004, this truly historic event provided much reason for debate. Many political scientists expected that enlargement would have a lasting impact on the institutions of the Union and the way these institutions make decisions (e.g. König & Bräuninger 2004; Baldwin & Widgrén 2004, 2005). Analyzing EU decision-making before and after Eastern enlargement has shown that the accession of twelve new member states has indeed impacted on the Union's decision-making process, although not as vividly as was expected prior to enlargement. The analyses, presented in four separate articles, make following three major contributions to the literature. First, I show that it is rational to act cooperatively within Council negotiations, providing strong support for a rational-choice institutionalist reading of EU decision-making. For time periods preceding and following Eastern enlargement, the member states maximize their utilities by following the cooperative style of Council bargaining, so frequently described in descriptive analyses of the Union. Second, by presenting the Procedural Compromise Model, I illustrate in line with Achen (2006) that combining the cooperative style of Council bargaining with procedural elements of the decision-making process is the way ahead for future models of the EU decision-making process. Additionally, the approach visualizes that the Procedural Compromise Model can derive valuable expectations about the EU decision-making process in general. Finally, two new datasets – the EULO dataset and the extended DEU dataset – are being made available to the research community. In future, both of these datasets can be used to further analyze European Union politics. As I have outlined in the introduction, especially the EULO dataset contains valuable, new information, which has not yet been analyzed systematically.

In the first article, coauthored with Dirk Leuffen, we show that old member states anticipate enlargement. Assuming that enlargement will make decision-making more cumbersome, the

old member states adopt more legislative acts before the new member states enter the decision-making stage. This finding is not restricted to Eastern enlargement, but holds for all enlargement rounds from the Greek accession in 1981 to Eastern enlargement in May 2004. Since anticipatory behavior is driven by the expectations about post-enlargement decision-making, stronger anticipation effects are found for Eastern enlargement, than for Northern Enlargement. In the case of Northern Enlargement in 1995 only three countries acceded to the Union. All three had more similar backgrounds to the old member states than the Eastern European countries in May 2004. The negative binomial model estimated in the empirical analysis of this article, also shows, however, that the number of members does not seem to have a direct influence on the number of legislative acts adopted.

While total legislative output, in quantitative terms, does not seem to be affected by enlargement rounds (Hertz & Leuffen 2010), the second article, also coauthored with Dirk Leuffen, shows the contrary for decision-making speed. Estimating a semi-parametric Cox model on a dataset coded for time-varying covariates, we show that decision-making time decreases as new member states enter the Union. This holds especially for Eastern enlargement, which unlike the Southern Enlargement of 1986 and the Northern Enlargement of 1995 affects the entire decision-making process. Both previous enlargement rounds merely delayed the first stages of the process, while not affecting the duration by which controversial legislative acts, remaining within the process for a longer period of time, have been adopted. These results provide novel and additional insights into how enlargements have impacted on EU decision-making.

The third article presents the Procedural Compromise Model. It combines procedural elements of the EU decision-making process with the cooperative bargaining style assumed by the Compromise Model (Van den Bos 1991). By embedding the Compromise Model into an EU context, I show that the model's empirical accuracy improves when predicting European Union decision outcomes. Utilizing the DEU dataset, I demonstrate that the Procedural Compromise Model outperforms the Compromise Model and pure procedural models alike. By comparing the outcomes of the procedural model with the Procedural Compromise Model, I show that it is rational for the actors to act cooperatively. Within the EU decision-making process, the member states obtain higher utilities when acting cooperatively than when acting uncooperatively. The rational-choice institutionalist reading of EU decision-making is also corroborated in article four, in which I show that it has been rational for the new member states to adopt the cooperative style of Council bargaining. These

results are an important contribution to the debate about whether EU decision-making is dominated by rational or socialized actors (Checkel 2005; Schimmelfennig 2000, 2001; Schimmelfennig & Sedelmeier 2002; Aspinwall & Schneider 2000). My analysis has demonstrated that cooperative behavior within the Council of Ministers prior to and after enlargement can entirely be explained by rational action within an institutional context, providing strong support for the rational-choice institutionalism approach.

The fourth article, focusing on the new member states behavior within the Council after Eastern enlargement, has illustrated that the new member states have adopted the cooperative style of Council bargaining. Continued cooperative behavior after Eastern enlargement has two implications for EU decision-making in general. First, it ensures that the community maintains its decision-making capacity. Second, it reduces the speed by which decisions are made. Both of these implications have been observed within empirical analyses. Hertz & Leuffen (2010) do not find a link between the total number of legislative acts adopted and the growth in group-size. In the second article, we do, however, find a reduction in decision-making speed after Eastern enlargement in 2004. To take up Coleman’s (1990) bathtub model discussed in the introduction the main findings of the four papers are summarized by Figure 1. Enlargement has led to a change in the expectations of the future. Combined with positive experiences, resulting from positive returns from cooperation, these have led to continuous, cooperative behavior within the Council. This in turn has impacted on the macro-level. The EU’s capacity to act has been maintained, but at the cost of slower decision-making – possibly the lesser evil.

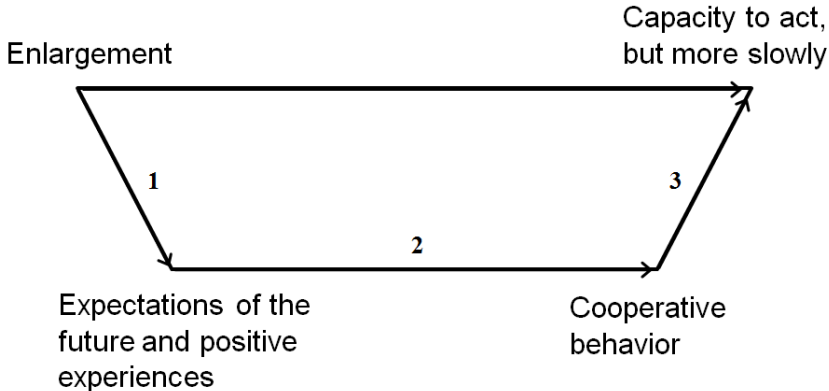


Figure 1: The Bathtub Model of Enlargement Effects.

What do these findings mean for European Union decision-making within the years to come? At first sight it is good news, that the new member states have adopted the cooperative style of Council bargaining. The continuation of consensual decision-making within the Council ensures that decisions are widely accepted and provides assurance to all member states that their interests will not simply be ignored. In the past the consensual decision-making style has successfully established unity amongst diverse preferences. While this seems to hold after enlargement, it comes at the price of ever longer negotiation rounds. The reduction in decision-making speed observed in the aftermath of Eastern enlargement provides an indication for the increased difficulty of finding unity within diversity. Although the decision-making process has not broken down and the output of total legislative acts has not declined after enlargement (Hertz & Leuffen 2010), the Union seems less flexible and less well capable to adapt and to react to internal crises and global events in the future.

Finally, I conclude by assessing three promising areas of future research, which result from the four articles presented above. The Procedural Compromise Model has contributed to the rational-choice modeling literature. Within this area, the Procedural Compromise Model poses questions for future research. For example, how does the model perform within a multi-dimensional space? Or why does the model, like other models perform especially poorly on issues decided by the qualified majority version of the Codecision Procedure. The procedure clearly seems less well understood and should be the focus of future research. What is peculiar about this version of the procedure, when compared to the unanimity version of the Codecision Procedure? How well have models captured the agenda setting process within this procedure? Is there a difference between agenda setting in the qualified majority version of the Codecision Procedure when compared to the unanimity version of the Codecision Procedure? Providing answers to these questions will improve our understanding of what is happening in Brussels and should lead to more accurate decision-making models in the future. Additionally, the Procedural Compromise Model's application to the post enlargement dataset in article four has been of a static nature. Within the application, actors cannot switch between the cooperative and uncooperative strategies dynamically. Extending the static analyses to a dynamic framework should provide additional insights into the dynamics of the adaptation process outlined by the article.

A second area of research that calls for further attention relates to the issue of adaptation addressed in the fourth article. While I have focused on the endpoint of adaptation, i.e. have the new member states adopted the cooperative style of Council decision-making, the process

of adaptation also has a starting point. Future research should assess from where the individual member states came from. In a rationalist framework, one could imagine different utility functions across the individual member states. Do the benefits of cooperation, which are sufficient to convince one member state to act cooperatively, suffice, to convince all member states to act cooperatively? Are there pre-conditions which make acting cooperatively less attractive for some member states than for others? These questions focus on the starting point of the adaptive process and can most accurately be addressed by individual case studies of the different member states.

The first article has provided evidence of anticipatory behavior within EU legislative decision-making. Focusing on enlargement events, the analysis has shown that anticipation might also play a role in regards to other important events of the EU integration process. Assessing anticipation in the context of Agricultural legislation, shows that events such as the MacSharry reform of 1992 seem to play a more important role than, for instance, Eastern enlargement. Future research should therefore assess the impact of important structural reforms on the legislative process in the context of anticipatory effects. This requires an in-depth analysis of the individual policy areas.

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