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What is This?

Treaty reform and the Commission's appointment and policy-making role in the European Union

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Abstract

This article analyses the role of the Commission in the European Union (EU). We present a game-theoretical model of two EU processes – Commission appointment and the adoption of legislation – and apply this model to the appointment of recent Commissions and their legislative programmes. Institutional reforms of the EU have led to more involvement of the European Parliament and majority voting in the Council in both processes. We find that the introduction of majority voting in the legislative process in the mid-1980s let the Commission move policy further from the status quo. Yet unanimity for appointing the Commission still allowed the member states to commit to a legislative programme that was preferred by all of them. More recently, the move to majority voting for appointing the Commission, combined with the ability of the European Parliament to amend Commission proposals, has moved the EU towards a more majoritarian political system. However, the potential policy consequences of these changes have been limited thus far because of the particular configuration of policy preferences of the governments and the European Parliament.

In this article we analyse the appointment of the Commission of the European Union (EU) and its policy-making role. We argue that the role of the Commission has evolved as a result of several key EU treaty reforms. To make this claim we

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present a game-theoretical model of two aspects of EU politics, namely: the appointment of the Commission and the adoption of legislation. We illustrate this model via an analysis of five Commissions that have been appointed since the early 1980s.

One of the most significant innovations in the design of European integration was the creation of the Commission and the delegation of a monopoly on legislative initiative to this body. Since the 1950s, the policy-making role of the Commission has changed dramatically as a result of several treaty reforms. Put simply, in the 1980s the EU Council (of member state governments) decided to adopt legislation by majority vote rather than by unanimity, in the 1990s the European Parliament (which is directly elected every five years by EU citizens) was granted a role in the appointment of the Commission and the adoption of legislation, and since the early 2000s the Commission has been appointed by a majority vote amongst the EU governments. Meanwhile, the EU has enlarged from 6 to 27 states, and EU policy-making has expanded into many new areas, such as environmental policy, social policy, monetary policy, justice and home affairs, and foreign policy.

Public perception of the Commission's powers has changed dramatically over time. During the 1960s and 1970s the Commission was generally considered weak and ineffective, whereas in the 1980s and 1990s it was widely thought of as strong and hyperactive under the leadership of Jacques Delors (e.g. Ross, 1995). Currently opinions diverge. An impression of an overzealous bureaucracy lingers among the wider public, but the Commission is once again mostly regarded as weak and toothless in political circles. For example, in the Laeken Declaration on the Future of the European Union, on 15 December 2001, the EU governments set out an agenda for reforming the EU treaties that included a section entitled: 'How can the authority and efficiency of the European Commission be enhanced?' Against these views, our contention is that institutional changes are more significant in explaining the changing role of the Commission than the personality of particular Commissioners.

In the next section we present a brief overview of the principal treaty reforms that have affected the appointment of the Commission and the EU legislative process. The subsequent section presents a game-theoretical analysis of Commission appointment and EU policy-making and studies the impact of the reforms on the Commission's policy-making role. We then apply this analysis to the Thorn, Delors, Santer, Prodi and Barroso Commissions.

We find that the reforms of the Commission appointment and EU legislative processes have had a significant impact on the role of the Commission. In both processes there has been a move toward majority voting in the Council and more involvement of the European Parliament. Originally, Commissions were appointed and policies were set by a unanimous Council. Thus our analysis shows that policies ended up close to the status quo, even if the Commission wanted more radical policy change. In the mid-1980s the Council started to use majority voting to set policy, which enabled the Commission to move policies further from the status

quo, so we find. This led to a rise in legislative activity and an increase in the powers of the Commission. However, the Council still needed unanimity to appoint a Commission, which allowed the Council to commit to a legislative programme that was preferred by all member states.

In the early 1990s the European Parliament became more involved in the legislative process. The approval of the European Parliament was now required in a number of policy areas, and it could amend policies in those areas with the support of a majority in the Council. This reduced the Commission's power. Policies could thus end up further from the status quo and, in their choice of a Commission, member states could no longer commit to a legislative programme preferred to the status quo by all member states. This, we argue, led to dissatisfaction in some member states about the functioning of the Commission and a tendency to appoint inactive Commissions.

Since the early 2000s the Commission no longer needs to be appointed by unanimity. A majority vote now suffices. As a result, Commissions with ideal policies further from the status quo can now be appointed, and, combined with majority voting for the adoption of legislation, EU policies could potentially change radically. Our analysis shows, however, that so far the policy consequences of these institutional reforms have been limited. This is mainly a result of the particular configuration of policy preferences of the EU governments and the European Parliament in recent years. Put another way, any lack of policy reform in the EU is now less a result of institutional constraints and more a product of the policy preferences of the EU governments and the European Parliament.

The reform of Commission appointment and EU policy-making

Table 1 summarizes the rules governing Commission appointment and the adoption of EU legislation and their evolution over time, focusing on the reforms that are relevant for the purposes of this article. The appointment process was significantly altered by the Maastricht and Nice treaties, whereas the legislative process considerably changed after the Single European Act (SEA) and the Maastricht Treaty. We can thus distinguish four time periods: (1) the pre-SEA period, (2) the SEA period, (3) the Maastricht period, and (4) the Nice period.

In the first period, prior to the SEA, the Commission was appointed by 'common accord' of the member state governments, which meant unanimity in the Council. More precisely, the European Council – the meeting of heads of state and government – appointed the Commission in this period, and has continued to be the main arena where Commission appointments are agreed by the EU governments. We do not distinguish between the Council and the European Council, however, because they both consist of representatives of the member states' governments.

The large member states had two Commissioners each (Germany, France, Italy and the UK since 1973, and Spain since 1986), whereas the other member states had one each. The member state governments played (and play) the most

Table 1. Major reforms of the Commission appointment and legislative processes

		Pre-SEA 1958–87	SEA 1987–93	Maastricht 1993–2003	Nice 2003–
Commission	Appointment President	UN	UN	UN	QM and P
	Appointment Commission	UN	UN	UN and P	QM, P and Pres
Legislation	Consultation approval	UN	QM	QM	QM
	Consultation amendment	UN	UN	UN	UN
	Codecision approval			QM and P	QM and P
	Codecision amendment			UN, or QM and P	UN, or QM and P

Notes: SEA: Single European Act; UN: a unanimous Council; QM: a qualified majority in the Council; P: European Parliament; Pres: Commission President. The Single European Act was agreed in December 1985, signed in February 1986, and entered into force in July 1987. The Maastricht Treaty was agreed in December 1991, signed in February 1992, and entered into force in November 1993. The Nice Treaty was agreed in December 2000, signed in February 2001, and entered into force in February 2003.

important role in the choice of their respective Commissioners, whereas the choice of Commission President was (and is) the result of negotiations amongst the EU heads of government.

In practice, the other member states, and more recently the European Parliament and the Commission President, play an increasingly important role in the choice of a member state's Commissioner. The fact that member states rarely withdraw their choices for Commissioners does not mean that they do not take the preferences of these other actors into account when choosing their Commissioners. In 2004, for example, Italy withdrew the nomination of Rocco Buttiglione and Latvia withdrew Ingrida Udre under pressure from the European Parliament. And, in 2009, Commission President Barroso encouraged a number of member states to nominate women and liberals by promising them more important Commission portfolios, in an effort to have one-third female Commissioners and to attract the support of the liberals in the European Parliament. As a result, the Netherlands nominated Neelie Kroes for a second term, even though her party was not in government and she had been expected to retire.

In the legislative process, meanwhile, prior to the SEA the Commission's proposals were introduced under the so-called 'consultation procedure'. Commission proposals required unanimous Council approval, and could be amended only by a unanimous Council. Formally, unanimity was not required in various policy areas even before the SEA, but the EU stuck to the unanimity rule as a result of the 1966 Luxembourg Compromise (Teasdale, 1993).

In the second period, the 1986 SEA did not change the appointment procedure but did alter the legislative process. In most policy areas, and particularly those relating to the creation and regulation of the EU single market, proposals no longer needed unanimous Council approval for adoption. A majority weighted voting system known as 'qualified majority voting' (QMV) was now used. Subsequent treaties have further extended the use of QMV.[1]

A qualified majority currently consists of: (1) 255 out of 345 votes; (2) from a majority of member states; (3) representing at least 62 percent of the EU population. For simplicity, we ignore conditions (2) and (3), but this has no effect on the conclusions. The member states receive votes based on population, with the largest states getting 29 votes and the smallest having 3. Under the provisions of the Lisbon Treaty the qualified majority rule will change in 2014.

In the third period, the 1992 Maastricht Treaty altered both the appointment and the legislative processes. In particular, it increased the European Parliament's involvement in both processes. Under the Maastricht Treaty the member states first nominated the Commission President by unanimity. This step formalized the already customary intergovernmental negotiations about the Presidency. After the nomination of the President, the member states chose the other Commissioners by unanimity, as before, but the entire Commission now also needed to be approved by a majority in the European Parliament. The Santer and Prodi Commissions were both appointed under this new procedure.[2] The Maastricht Treaty also introduced a new legislative procedure known as 'codecision', which gave the European Parliament a veto right and the right to amend Commission proposals together with a qualified majority in the Council.

Finally, the 2001 Nice Treaty relaxed the Council's decision rule for the nomination of the Commission President and the appointment of the Commission: a qualified majority is now required rather than unanimity. The European Parliament has a veto on the nomination of the Commission President, and the Commission President has a veto over the appointment of the other Commissioners. Furthermore, the treaty reduced the number of Commissioners to one per member state. The two Barroso Commissions were appointed under these rules. The Nice Treaty also further extended the use of codecision in the legislative process.

The Lisbon Treaty entered into force during the appointment of the second Barroso Commission. The Lisbon Treaty did not significantly alter the appointment process. It merely states that the member states have to 'take into account the European Parliament elections' when they nominate the Commission President, but it does not specify how the Council should do this. In practice, since the Maastricht Treaty the member states have had to take account of the European Parliament elections when appointing the Commission because since then the Commission President has required the support of a majority in the newly elected European Parliament.

In sum, both the Commission appointment process and the EU legislative process have gone through the same two evolutions: a shift from unanimity to majority voting in the Council and more involvement of the European Parliament.

These moves were introduced in two steps but were not completely synchronized. They did not even happen in the same order. The legislative process moved to majority voting as a result of the SEA in the mid-1980s, whereas the Maastricht Treaty enhanced the European Parliament's role in the legislative process in the early 1990s. The Maastricht Treaty also gave the European Parliament a role in the Commission appointment process. However, majority voting for the appointment of the Commission was not introduced until the Nice Treaty entered into force in 2003. The next section presents a game-theoretical model to study the impact of these institutional changes on the appointment of the Commission and its role in EU policy-making.

A theoretical analysis of appointment and policy-making

The models

We use spatial models to study the appointment and legislative processes. In spatial models, alternative policies are represented by points in an *n*-dimensional policy space. Each dimension corresponds to a specific policy issue. Policy-making can then be thought of as choosing a point in the policy space. We assume that political actors care about policy and have Euclidean preferences. That is, they have ideal policies and prefer policies that are closer to rather than further away from their ideal policies. Thus, the actors can be represented by points in the policy space (see Thomson et al., 2006).

In our model, the *n* dimensions correspond to the *n* issues the EU deals with during a Commission's term of office. The policy actors are the *m* member states, the Members of the European Parliament (MEPs) and the Commissioners. The member states and MEPs first appoint a Commission and then set EU policies on the *n* issues together with the Commission. We assume that the EU considers the *n* issues it faces sequentially during the legislative process, and we refer to an *n*-dimensional policy as a legislative programme.[3] During the appointment process the member states and MEPs look ahead and consider the legislative programme that will be implemented during the Commission's term. Our model of Commission appointment is thus *n*-dimensional.

Spatial models have become a standard approach in the study of the EU legislative process. Crombez (1996, 1997a, 2001), Moser (1997), Steunenberg (1994) and Tsebelis (1994), amongst others, present spatial models of EU policy-making. Our model mainly follows Crombez's approach. Since the member states, the MEPs and the Commissioners have Euclidean preferences, their preferences over a policy issue are independent of the EU policies on other issues. Member state *k*'s utility, for example, decreases as the EU policy on dimension *i* moves further away from its ideal policy on dimension *i*, whatever the EU policies on the other dimensions. As a result, EU policy-making on dimension *i* can be studied as if it were the only relevant dimension. For that reason we present one-dimensional models of policy-making.[4]

The European Parliament and the Commission use simple majority voting rules and there are no restrictions on amendments. As a consequence, the analysis of policy-making on dimension i can be simplified by focusing on the ideal policies of the median Commissioner and the median MEP on dimension i. Suppose the status quo is to the right (left) of the median Commissioner's ideal policy on dimension i, then the median Commissioner and all Commissioners on his/her left (right) then want a move to the left (right). As a result, any policy is defeated in the Commission by policies that are closer to the median Commissioner's ideal policy (for example, Black, 1958). A similar reasoning applies to the European Parliament. In the legislative process, the Commission and the European Parliament can thus be treated as unitary actors with ideal policies equal to their medians' ideal policies on dimension i.

The Council is not represented as a unitary actor because it uses QMV or unanimity for the adoption of legislation. Nonetheless, the analysis of policy-making on dimension i can be simplified by focusing on the member states that are pivotal under the qualified majority and unanimity rules. Under the qualified majority rule, 255 votes out of a total of 345 are currently needed to defeat the status quo. The member state a^i that is pivotal for a rightward move on dimension i thus has an ideal policy to the left of the member state with the median vote. In particular, under the currently QMV rule, member state a^i is the member state with the 91st vote (from the left). Member state a^i and the member states to its right then have at least 255 votes, and the member states to its right do not constitute a qualified majority without member state a^i. Similarly, the member state b^i that is pivotal for a move to the left is the member state with the 255th vote. Since approval by a qualified majority is the minimum requirement for the adoption of legislation, we focus on n dimensions on which a qualified majority agrees on the need for and the direction of policy change. Under the unanimity rule, the two most extreme member states 1^i and m^i on dimension i are pivotal.

In sum, there are thus six potentially relevant actors in policy-making on dimension i: (1) the Commission, as represented by the median Commissioner on dimension i; (2) the European Parliament, as represented by the median MEP on dimension i; and (3,4,5,6) the pivotal member states 1^i, a^i, b^i and m^i.

The sequence of events in policy-making on dimension i depends on the legislative procedure that applies. We focus on the two main legislative procedures of the EU: consultation and codecision (now called the 'ordinary legislative procedure' after the Lisbon Treaty). Under consultation, the Commission first proposes a policy. Next the Commission proposal is voted on by the member states in the Council. Prior to the SEA, unanimity in the Council was required for the adoption of a proposal. Since the SEA, QMV applies.[5] If the proposal is approved, it becomes EU law. Otherwise the status quo prevails on dimension i. Under codecision, in contrast, the European Parliament also has to approve the proposal for it to be adopted. Moreover, under codecision the European Parliament can amend the proposal and, if the amendment is approved by a qualified majority in the Council, the amended proposal is adopted.[6] If the amendment is rejected and the

Commission proposal is subsequently defeated as well, the status quo prevails on dimension i.

The appointment process has received only scant attention in the theoretical literature. To our knowledge, Crombez (1997b) presents the only formal model of Commission appointment. Hug (2003) finds empirical support for the conclusions of the model. According to Crombez, what matters in the appointment process is the selection of the median Commissioner on each dimension, because in the legislative process the Commission acts as if its ideal policy on an issue were equal to the median Commissioner's ideal policy on that issue. Even though Commissioners have their specific responsibilities, they decide as a college. The median Commissioner is thus pivotal on an issue. Decision-making in the Commission is thus collective and majoritarian rather than based on independent portfolios.

We use a simplified version of the Crombez model of Commission appointment. A member state is selected to propose a dimension-by-dimension Commission median, which then requires the approval of the Council (by unanimity prior to Nice, and by qualified majority thereafter) and, since Maastricht, the European Parliament.[7] If the proposed dimension-by-dimension Commission median is approved, the Commission takes office and proceeds to formulate policy proposals on the n dimensions. If not, no Commission is installed and the status quo prevails.

The model incorporates complete and perfect information. We use the subgame perfect Nash equilibrium concept.[8] A formal characterization of the model and the equilibria can be found in the Web Appendix.

The legislative process

As mentioned above, there have been two major reforms of the legislative process: (1) the SEA established QMV; and (2) the Maastricht Treaty introduced codecision. Prior to the SEA, the Commission needed the approval of all member states for the adoption of its proposals. As a result, on any policy issue, the Commission could move policy away from the status quo only if all member states wanted to move in the same direction. This meant that the most 'conservative' member state – the member state closest to the status quo – was pivotal. This member state's support was the hardest to obtain and its preferences thus determined EU policies, since policies could not be adopted unless this member state preferred them to the status quo. As a result, the Commission considered only policies that the most conservative member state preferred to the status quo, and proposed the policy it preferred most from amongst those policies. The Commission thus had limited 'agenda-setting power' before the SEA. That is, the Commission's ability to move EU policy toward its own ideal policy by formulating policy proposals was restricted. Only conservative Commissions could get approval for their ideal policies and only limited legislative programmes could hence be adopted.

After the SEA's introduction of QMV for the adoption of legislation, the Commission no longer needed the support of all member states for the adoption

of its proposals. For a policy issue now covered by QMV, the Commission could focus on the member state that was pivotal for a qualified majority, because any proposal that won its support could be adopted in the Council. Again, this pivotal member state approved any policies it preferred to the status quo. The Commission thus considered the policies that this member state preferred to the status quo and proposed the policy it preferred the most from amongst those policies.

The SEA thus increased the set of policies that the Commission could successfully propose. The Commission could continue to propose the same policies it would have proposed before the SEA, because policies preferred by all were obviously preferred by a qualified majority. However, a Commission that preferred more progressive policies than the most status-quo-minded member state was willing to accept could obtain policies that were closer to the Commission's ideal than it could before the SEA. Thus, the SEA increased the agenda-setting powers of the Commission and led to an increase in legislative activity. For all possible configurations of preferences, policy was at least as close to the Commission's ideal policy after the SEA as it was before. As a result, the Commission could successfully propose more progressive legislative programmes.

The Maastricht Treaty then introduced codecision, and subsequent treaty reforms have since widened its application. Under codecision, Commission proposals require European Parliament approval in addition to approval by a qualified majority in the Council. If the European Parliament is more conservative than the pivotal member state, the introduction of codecision thus reduces the set of policies that the Commission can successfully propose on any policy issue. If the European Parliament is more progressive, however, as is often assumed, the European Parliament's veto right does not affect policy.

Moreover, the European Parliament and a qualified majority in the Council can amend Commission proposals under codecision. This also reduces the set of policies the Commission can successfully propose. A Commission that is more conservative (progressive) than the European Parliament and the more conservative (progressive) pivotal member state for QMV cannot obtain its own ideal policy. This is because, if the Commission proposed a policy that was more conservative (progressive) than the position of the European Parliament or of the more conservative (progressive) pivotal member state under QMV, the European Parliament or the pivotal member state would amend the Commission proposal. This would not have been possible under the legislative rules of the SEA. As a result, whereas the SEA increased the Commission's agenda-setting power, the Maastricht Treaty and subsequent treaty reforms have reduced it.

However, whether the Commission became more powerful after Maastricht than it had been before the SEA depends on the configuration of the preferences of the actors. Codecision led to more progressive policies if, as is often assumed, the European Parliament was progressive. Conservative Commissions would then become less powerful, because they could no longer keep policies close to the status quo. Progressive Commissions, on the other hand, would become more

powerful, because they no longer needed to obtain unanimity in the Council for their proposals.

> **Proposition 1:** The two major reforms of the legislative process have had opposite effects on the ability of the Commission to secure its preferred policies: the SEA increased it, whereas the Maastricht Treaty reduced it. As a result of the SEA, the Commission could get policies approved that were further from the status quo than before. Since Maastricht, the Commission can no longer keep policy as close to the status quo as it may want. Whether the Commission is more powerful today than it was prior to the SEA depends on the configuration of preferences. Under a 'progressive' European Parliament, a 'conservative' Commission was more powerful before the SEA, whereas a progressive Commission is more powerful today.

Commission appointment

As mentioned above, the appointment process also underwent two major reforms: (1) the Maastricht Treaty gave the European Parliament a veto right; and (2) the Nice Treaty introduced QMV in the Council for appointing the Commission. To understand the impact of these changes it is important to consider the difference between two types of Commission: (1) a Commission whose ideal policy is preferred to the status quo by all member states; and (2) a Commission who prefers more radical policy change but is constrained by the legislative rules so that it can achieve only policies preferred to the status quo by all member states. Since member states care ultimately about policies, they look ahead when appointing a Commission and are concerned with the legislative programme the Commission will realize rather than the particular policy location of the Commission.

Prior to the Maastricht Treaty, the appointment of a Commission required unanimity in the Council, with no role for the European Parliament. Thus, only Commissions that would realize legislative programmes preferred to the status quo by all member states could be appointed. Before the SEA, the governments were aware that the Commission could successfully propose only conservative legislative programmes, as discussed above. On every issue these programmes consisted of policies that were preferred to the status quo by all member states. Any Commission could thus be appointed, but it could propose only programmes close to the status quo. Hence, only conservative Commissions could be appointed and successfully propose their ideal programmes.

After the SEA, as explained above, the Commission could successfully propose more progressive legislative programmes. Programmes no longer needed to consist of policies that were preferred to the status quo by all member states on every issue. Support by a qualified majority on every issue sufficed for the Commission to get a programme approved. More progressive Commissions could thus successfully propose their ideal policies. As a result, in the appointment process member

states now had to pay more attention to the policy preferences of the Commission and be careful not to appoint a Commission that could realize a programme further from their ideal policy than the status quo. Nevertheless, the use of unanimity for appointing the Commission meant that the member states closest to the status quo could still limit the extent to which policy could be moved by the Commission. As a result, under the SEA, the appointment of a Commission represented a commitment to a legislative programme preferred to the status quo by all member states, even though a qualified majority sufficed for the adoption of a policy in the legislative process.

By requiring European Parliament approval for the appointment of the Commission, the Maastricht Treaty restricted the set of Commissions that could be appointed. Nevertheless, if the European Parliament was progressive, this extra restriction had no impact on Commission preferences.

Maastricht's introduction of codecision, by contrast, led to more progressive legislative programmes. Only progressive Commissions could thus successfully propose their own ideal policies. Conservative Commissions could no longer make sure that status-quo-oriented programmes would be implemented, because their proposals could be amended by the European Parliament and a qualified majority in the Council. As a result, when appointing the Commission, the member states could no longer commit themselves to a limited legislative programme, preferred to the status quo by all member states.

As a result of the Maastricht reforms it thus became more difficult to appoint a Commission but easier to approve progressive legislative programmes. Maastricht raised the possibility that a member state would be isolated during the Commission's term and prefer the status quo to the legislative programme. This could lead conservative member states to criticize the Commission for proposing radical policy change. The above analysis shows, however, that the use of codecision in the legislative process rather than appointment of 'run-away' Commissions is the reason for this evolution.

What could a member state close to the status quo do to prevent ending up in opposition to most policies during a Commission's term? Since unanimity was still required to appoint the Commission, a conservative member state could simply veto the appointment of a new Commission, thus preserving the status quo. In reality, a new Commission would be proposed after a member state's veto, and this member state could then force the other member states to appoint a Commission that prefers the status quo to policy change and remains inactive during the legislative process. In this period, what might seem like the appointment of an ineffective Commission might simply be conservative member states forcing the other member states to accept a Commission close to the status quo.

However, the Nice Treaty limits the ability of a conservative member state to pursue such a strategy by removing the veto from the appointment of the Commission. With a qualified majority for appointing the Commission, a member state may end up in an 'opposition' position during the Commission's

term: having lost on the appointment of the Commission and then also losing in the adoption of the Commission's legislative programme.

> **Proposition 2:** Before Maastricht, only Commissions close to the status quo could be appointed and successfully propose their ideal policies. Since Maastricht, the Commission could no longer keep policy close to the status quo, but potentially dissatisfied member states (close to the status quo) could still force the appointment of more conservative Commissions. The Nice Treaty, which introduced QMV for appointing the Commission, could lead to Commissions and legislative programmes that are further away from the status quo and not supported by all member states.

Recent Commission appointments and policy-making

We illustrate the intuitions of the model with 'real-world' scenarios of EU policy-making under the four institutional periods we have discussed. For the pre-SEA period we look at the Thorn Commission, which held office from 1981 to 1985. For the post-SEA period we look at the second Delors Commission, which held office from January 1989 to January 1993 (we do not look at the first Delors Commission because the SEA entered into force during the term of office of that Commission). For the post-Maastricht period we look at the Santer and Prodi Commissions, which were in office from January 1995 to March 1999 and from September 1999 to November 2004, respectively. And for the post-Nice period we look at the first Barroso Commission, which was in office from November 2004 to February 2010.

For each of these periods we look at the ideal policies of the key actors (the Commission, the European Parliament and the EU governments) on two dimensions of EU policy-making: a generic left–right dimension and an anti-/pro-Europe dimension. To calculate the ideal policies of the actors in the different time periods we rely on a unique data set, which we constructed from expert judgements regarding parties' positions on these two dimensions (Warntjen et al., 2008; Wonka, 2007). Political scientists in each member state were asked to place the parties in their member state on a range of policy dimensions, and the ideal policy of a party was then assumed to be the mean score for that party given by the experts (Hooghe et al., 2010). We do not assume that Commissioners have exactly the same policy positions as their national parties on all issues. Nevertheless, because almost all Commissioners are career party politicians, it is not unreasonable to assume that the left–right and pro-/anti-European locations of a Commissioner's national party are correlated with the Commissioner's positions on these dimensions.

From these data we calculated the ideal policies of the actors as follows. The members of the Commission were assumed to have the same left–right and anti-/pro-Europe preferences as the national parties that nominated them. Following the assumptions in the theoretical model, we first located the ideal policy of the Commission at the position of the median Commissioner on each dimension.

We then located the ideal policy of the European Parliament by focusing on the median political group on each dimension. Each MEP was considered to have the same ideal policy as her/his national party, each political group was considered to have the same ideal policy as the median national party in the group, and the European Parliament as a whole was considered to have the same ideal policy as the median political group. Finally, we calculated the ideal policy of each national government as the average position of the parties in a government, weighted by each party's share of cabinet seats.

We do not assume that all policy issues in the EU are determined by actors' positions on these two dimensions. All we assume is that actors' preferences on the left–right and anti-/pro-Europe dimensions are reasonable approximations of the positions actors take on many important issues in EU politics, such as whether the single market should be more regulated or deregulated, the level of environmental and social standards, or whether EU migration policies should be more liberal or more restrictive (Hix and Lord, 1997; Hooghe and Marks, 1998). We also do not assume that each minister in the Council, each Commissioner or each MEP will always have the same policy preference as her/his national party. Rather, all we assume is that, because national parties are the key aggregate actors in European politics (who choose ministers and Commissioners and candidates in European Parliament elections), an actor is likely to take positions that are not too distant from the policy preferences of her/his national party. These assumptions are consistent with empirical studies of voting in the Council and the European Parliament, which find, first, that these two dimensions capture a large proportion of the variance in voting patterns in these two institutions and, second, that national party policy positions on these two dimensions are good predictors of ministers' and MEPs' voting decisions (Hagemann and Høyland, 2008, 2010; Hix, 2001; Hix et al., 2006; Mattila, 2004; Mattila and Lane, 2001; Noury, 2002; see also Thomson, 2011; Zimmer et al., 2005, for counter-evidence).

From the ideal policies of the actors on the two dimensions we then worked out the size of the set of policies that can be adopted by the EU in a particular period and the location of policy proposals from the Commission. In each period, to aid comparison across policy issues and across time, we standardized the policy scales: placing the status quo at 0, the actor closest to the status quo at 0.1, and the actor furthest from the status quo at 1.[9] We locate the status quo at the left end of the left–right dimension because, on average, economic integration in Europe has meant the removal of barriers to trade and the liberalization of domestic policies, such as the privatization of state-owned enterprises. Also, following other descriptions of EU politics (for example, Tsebelis and Garrett, 2000), we place the status quo at the 'anti' end of the anti-/pro-Europe dimension because, in the absence of new EU policies, the existing patchwork of national policies would remain.

Starting with the first time period, Figure 1 shows the positions of the actors on the two dimensions in 1984, during the Thorn Commission. The Thorn Commission was relatively centrist on the left–right dimension, yet was composed of politicians from national parties that had relatively pro-European views at that
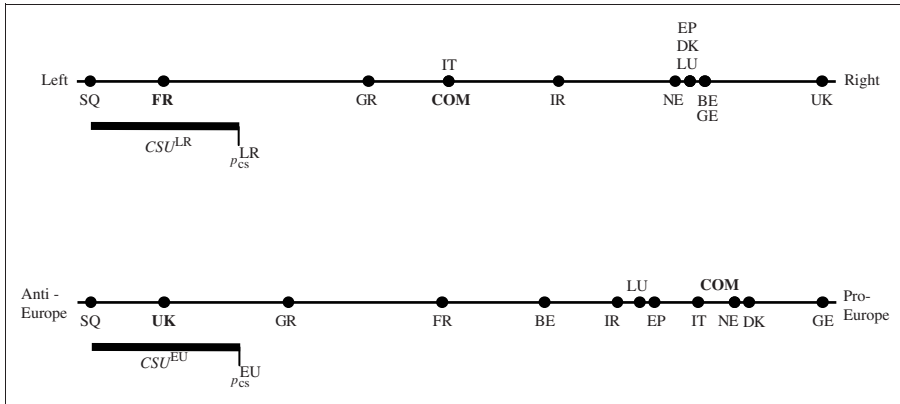
Figure 1. Positions and policy-making under the Thorn Commission, circa 1984.
Notes: BE: Belgium, COM: Commission, DK: Denmark, EP: European Parliament, FR: France, GE: Germany, GR: Greece, IR: Ireland, IT: Italy, LU: Luxembourg, NE: Netherlands, UK: United Kingdom; SQ: status quo; CSU^{LR}, CSU^{EU}: sets of successful proposals under consultation (under unanimity); p_{cs}^{LR}, p_{cs}^{EU}: EU policies under consultation (with unanimity).

time. As the figure shows, though, unanimous voting in the Council meant that the set of policies that could be adopted was limited – restricted to the ranges CSU^{LR} and CSU^{EU}. At that time, the French socialist government could successfully resist any major European market liberalization initiatives, and the British conservative government could resist Commission efforts to harmonize national standards beyond a bare minimum level. Nevertheless, from the sets of feasible policies, the Commission was able to propose the policies closest to its ideal policy, which were then adopted by the Council: at p_{cs}^{LR} and p_{cs}^{EU}.

As a result, although unanimous voting prior to the SEA presented a significant constraint on European integration, there were some successful policy changes in the pre-SEA period, such as the establishment of the European Regional Development Fund in 1975 and the first two European environmental action programmes in 1973–7 and 1977–81. Overall, though, the institutional rules of the legislative process were the main reason the Commission was such a weak actor prior to the SEA.

Figure 2 shows the dramatic effect of the shift to QMV in the Council for passing legislation following the SEA. Despite a relatively similar line-up of ideal policies amongst the governments in 1984 and 1989, the set of policies that could be adopted was dramatically different in the two periods. Under QMV, rather than the member state closest to the status quo being the pivotal actor (France and the United Kingdom in both 1984 and 1989), in 1989 Belgium was the pivotal member state under QMV for a move rightwards and France was the pivotal member state under QMV for a move in a pro-Europe direction. The sets of policies these governments preferred to the status quo were wide: the ranges CSQ^{LR} and CSQ^{EU}.

The ideal policies of the Thorn Commission and the second Delors Commission were similar: centrist on the left–right dimension and towards the pro-Europe end
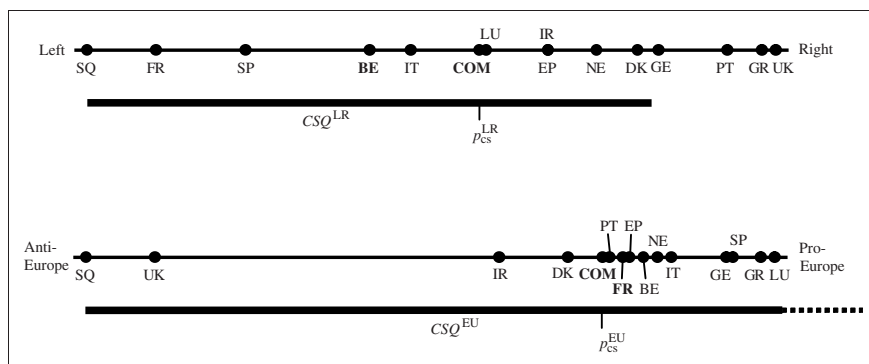
Figure 2. Positions and policy-making under the second Delors Commission, circa 1989.
Notes: BE: Belgium, COM: Commission, DK: Denmark, EP: European Parliament, FR: France, GE: Germany, GR: Greece, IR: Ireland, IT: Italy, LU: Luxembourg, NE: Netherlands, PT: Portugal, SP: Spain, UK: United Kingdom; SQ: status quo; CSQ^{LR}, CSQ^{EU}: sets of successful proposals under consultation (with QMV); p_{cs}^{LR}, p_{cs}^{EU}: EU policies under consultation (with QMV).

of the anti-/pro-Europe dimension. However, the size of the set of feasible policies that could be adopted under QMV explains why the Delors Commission was far more successful than the Thorn Commission. Whereas the Thorn Commission had to compromise, the Delors Commission was able to successfully propose its own ideal policies, at p_{cs}^{LR} and p_{cs}^{EU}.

These policies represented significant policy shifts in a free market and integrationist direction. In fact, the EU was able to pass almost 300 pieces of legislation to establish the single market by 31 December 1992. Because of this policy activism in Brussels, the Delors Commission has traditionally been regarded as a powerful policy entrepreneur (for example, Grant, 1994; Middlemas, 1995; Ross, 1995). Our contention, though, is that the power of the Commission following the SEA had less to do with the personality of Jacques Delors or successful policy leadership by the Commission than with the change in the legislative role of the Commission as a result of the shift to QMV (see Moser, 1997; Tsebelis, 1994; and Tsebelis and Kreppel, 1998). Put another way, any Commission in 1989 would have been as powerful, in policy terms, as the Delors Commission.

Figure 3 contrasts the Santer and Prodi Commissions, in 1995 and 2000 respectively, under the post-Maastricht institutional set-up, following the introduction of the codecision procedure. The key point to note here is how the Maastricht Treaty constrained the policy activism of the Commission relative to the rules of the SEA. In general, the electoral success of socialist parties in the late 1990s and the appointment of Commissioners from centre-left parties as a result of the changes in the governments are reflected in the changing make-up of the Commission and the Council across the two periods. Nevertheless, the centre-right political groups, in the European People's Party and the European Liberal, Democrat and Reform Party, dominated the European Parliament in both these periods.
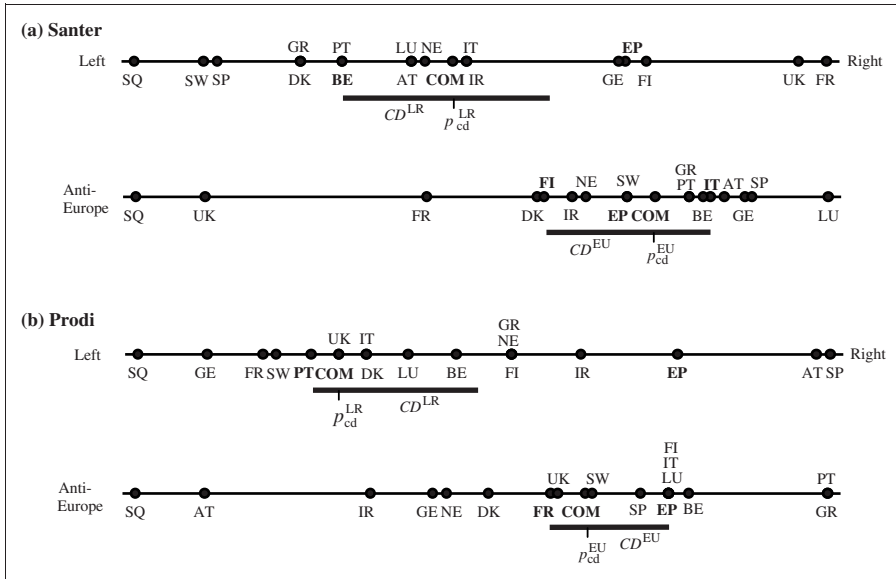
Figure 3. Positions and policy-making under the Santer and Prodi Commissions, circa 1995 and 2000, respectively.

Notes: AT: Austria, BE: Belgium, COM: Commission, DK: Denmark, EP: European Parliament, FI: Finland, FR: France, GE: Germany, GR: Greece, IR: Ireland, IT: Italy, LU: Luxembourg, NE: Netherlands, PT: Portugal, SP: Spain, SW: Sweden, UK: United Kingdom; SQ: status quo; CD^{LR}, CD^{EU}: sets of successful proposals under codecision; p_{cd}^{LR}, p_{cd}^{EU}: EU policies under codecision.

Figure 3 consequently illustrates how the changing actors' preferences and the new post-Maastricht legislative rules combined to shape policy outcomes under the Santer and Prodi Commissions.

To start with, the sets of policies that could be adopted under the codecision procedure in the two periods – CD^{LR} and CD^{EU} in Figure 3 – are considerably smaller than the sets of policies that could be adopted following the SEA – CSQ^{LR} and CSQ^{EU} in Figure 2. This is because the pivotal member state under QMV in the Council and the median political group in the European Parliament had the ability to agree on amendments after the Commission had made a proposal, and these two actors could also veto any policy that would be further from their ideal policies than the status quo. In 1995, for example, on the anti-/pro-Europe dimension the set CD^{EU} is bound on the 'anti' end by the ideal policy of Finland (the pivotal member state under QMV for a move in a pro-Europe direction) and bound on the right end by the ideal policy of Italy (the pivotal member state under QMV for a move in an anti-Europe direction). In contrast, on the left–right dimension, the set CD^{LR} is bound on the left end by the ideal policy of Belgium (the pivotal member state under QMV in the Council for a move in a rightwards direction) and bound on the right end by the furthest rightwards policy that Belgium would be willing to accept over the status quo.

The size and location of these sets explain the outcomes under the Santer and Prodi Commissions, and why these two Commissions were more constrained than the Delors Commission. On the left–right dimension, the Santer Commission was able to successfully propose its own relatively centrist ideal policy, at $p_{\mathrm{cd}}^{\mathrm{LR}}$. On the anti-/pro-Europe dimension, the Santer Commission was also able to successfully propose its ideal policy. In general, the fact that the European Parliament was less integrationist than the Commission in this period explains why the majority in the European Parliament was unhappy about many policy initiatives of the Santer Commission, such as the End-of-Life Vehicles Directive in 1997 (see Hix et al., 2007).

The Prodi Commission, which was appointed in 1999 when a majority of member states had centre-left governments, was located considerably to the left of the Santer Commission. In contrast, the victory of centre-right parties in the 1999 European Parliament elections meant that the median MEP in the median political group in the European Parliament had shifted slightly to the right. As a result, with a centre-left majority in the Council and Commission opposed by a centre-right majority in the European Parliament, July 1999 marked the start of a period of 'divided government' in the EU.

Despite this set of policy positions, on both policy dimensions the Prodi Commission was located in the set of policies that could be adopted by codecision. This allowed the Commission to successfully propose its own ideal policies, which were backed by QMV in the Council and a majority in the European Parliament, at $p_{\mathrm{cd}}^{\mathrm{LR}}$ and $p_{\mathrm{cd}}^{\mathrm{EU}}$. The result was a set of policies under the Prodi Commission that were similar to those under the Santer and Delors Commissions in terms of the level of European harmonization but were slightly to the left in terms of their policy orientation, for example in the fields of environmental and social policy. Nevertheless, the Prodi Commission also tried to shift some policies leftwards (from status quos located on the right). On these issues, such as the Working Time Directive in 1988, the Commission was limited by the codecision procedure, which enabled the centre-right majority in the European Parliament and the pivotal government under QMV for a move leftwards (Finland) to block any significant reforms. Hence, whereas the SEA empowered the Delors Commission, the Maastricht Treaty led to tight constraints on both the Santer and Prodi Commissions. However, the fact that these two Commissions were closer to the status quo than the Delors Commission on most policy issues meant that in the end they were both able to achieve their preferred policies.

Finally, Figure 4 contrasts the location of the actors and the policy outcomes under the Prodi Commission, which operated under the Maastricht Treaty rules, and the first Barroso Commission, which was the first Commission to be appointed under the Nice Treaty rules. We conduct the analysis in two dimensions this time because this enables us to consider the effect of the introduction of QMV for the appointment of the Commission by the Nice Treaty. When passing legislation, it is reasonable to assume that the governments and the European Parliament consider policies issue by issue. When appointing the Commission, however, the
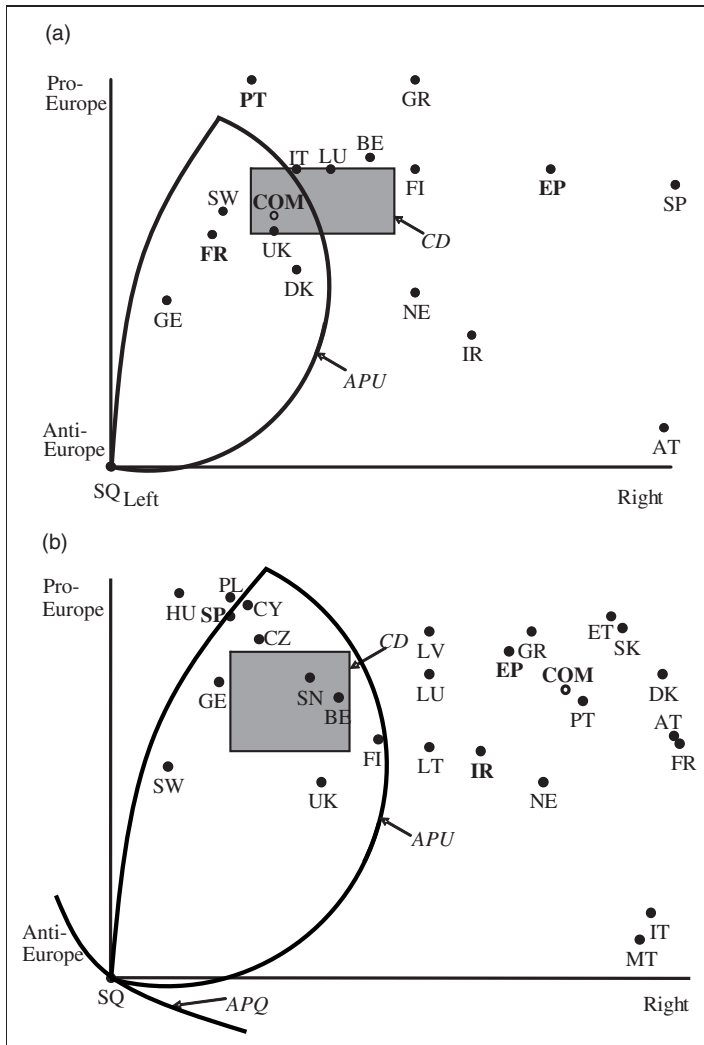
Figure 4. Positions and policy-making under the Prodi and Barroso Commissions, circa 2000 and 2005, respectively.
Notes: AT: Austria, BE: Belgium, COM: Commission, CZ: Czech Republic, CY: Cyprus, DK: Denmark, EP: European Parliament, ET: Estonia, FI: Finland, FR: France, GE: Germany, GR: Greece, HU: Hungary, IR: Ireland, IT: Italy, LT: Lithuania, LU: Luxembourg, LV: Latvia, MT: Malta, NE: Netherlands, PL: Poland, PT: Portugal, SK: Slovakia, SN: Slovenia, SP: Spain, SW: Sweden, UK: United Kingdom; SQ: status quo; *CD*: sets of successful proposals under codecision; *APU*: set of programmes preferred to the status quo by unanimity; *APQ*: set of programmes preferred to the status quo by QMV.

governments and the European Parliament consider the range of policies that the Commission is likely to propose and that might then be adopted.[10]

Starting with the appointment of the Prodi Commission, recall that under the Maastricht Treaty the Commission was appointed by unanimity in the Council and a majority in the European Parliament. As Figure 3 showed, the German government was the pivotal member state under unanimity (closest to the status quo) on the left–right dimension, whereas the Austrian government was the pivotal member state on the anti-/pro-Europe dimension. The set APU in Figure 4(a) is bound by the indifference curves of these two governments, which enclose the set of Commissions that can be appointed by unanimity in the Council. Note that the Prodi Commission is located within this set.

Turning to the legislative process, under the codecision procedure in 2000 the pivotal member state on the left–right dimension for a move to the right was Portugal, whereas the pivotal member state on the anti-/pro-Europe dimension for a move in a pro-Europe direction was France (see Figure 3). The European Parliament and a qualified majority in the Council could amend a Commission proposal if it was to the left of Portugal or less integrationist than France. Also, Portugal could amend any proposal that was further to the right than the status quo was to its left, and the European Parliament could amend any proposal that was more integrationist than its ideal policy. Hence, the set CD in Figure 4(a) is the set of policies that could be adopted by codecision: which is simply the sets CD^{LR} and CD^{EU} from Figure 3 in two dimensions.

As a result, the intersection $CD \cap APU$ in Figure 4(a) is the set of policies that the EU could have enacted in 2000 with unanimity in the Council for appointing the Commission and with the codecision procedure for adopting legislation. The Prodi Commission is located exactly in this intersection.

In May 2004 the EU enlarged to 25 member states, and the Barroso Commission was then appointed in November 2004. Once again, the set APU in Figure 4(b) is the set of programmes that the European Parliament and the two pivotal member states under unanimity (this time, Sweden and Malta) prefer to the status quo. Note that, despite enlargement of the EU, the set APU in Figure 4(b) is actually slightly larger than the set APU in Figure 4(a). This is because the Swedish government in 2005 was slightly more integrationist than the German government in 2000.

However, the Barroso Commission was the first to be appointed by QMV in the Council. A vote was not taken in the Council on either the appointment of Barroso or the appointment of the Commission as a whole. Nonetheless, it was widely known at the time that consensus amongst the governments was achieved 'in the shadow of a vote', with the French and German governments in favour of the Belgian Prime Minister Guy Verhofstadt as Commission President rather than Barroso. The first Barroso Commission was not located in the set of policies that all member states preferred to the status quo (APU) but was located in the set of policies that a qualified majority preferred to the status quo (APQ).

In fact, the first Barroso Commission was the furthest to the right of any of the Commissions we look at and was also to the right of the median political group in the European Parliament in 2004. This was partly a result of the fact that a majority of governments in the enlarged EU in 2004 were on the centre-right. The change in the Nice Treaty to one Commissioner per member state also changed the political make-up of the Commission since, when there were two Commissioners for each of the largest member states, the governments in these states tended to appoint one Commissioner from the left and one from the right, which moderated the overall political balance in the Commission.

Turning to the legislative process, in 2005 the pivotal member state under the codecision procedure on the left–right dimension for a move to the right was Spain, whereas the pivotal member state on the anti-/pro-Europe dimension for a move in a pro-Europe direction was Ireland. This time, the European Parliament and a qualified majority in the Council could amend a Commission proposal if it was to the left of Spain or less integrationist than Ireland. Also, Spain could amend any proposal that was further to the right than the status quo was to its left, and the European Parliament could amend any proposal that was more integrationist than its ideal policy. Hence, the set *CD* in Figure 4(b) shows the set of policies that could be adopted by codecision.

In this period, the set *CD* is within the set *APQ*. However, the first Barroso Commission was considerably to the right of this set. In other words, the checks and balances of the EU legislative process – a qualified majority in the Council plus a simple majority in the European Parliament – were considerable constraints on the Barroso Commission. For example, the Barroso Commission set out a radical programme of market liberalization and economic reform in its first annual work programme, and the socialist group in the European Parliament voted against the European Parliament resolution on the Commission's annual work programme for the first time. However, the Commission was not able to implement many elements of the programme as a result of opposition in the Council and the European Parliament. So, although the shift to QMV for appointing the Commission enabled a more radical Commission to be appointed, the combination of the preferences of the actors and the rules of the legislative process meant that the Commission's ability to implement radical reform was constrained.

Conclusions

In the 1950s the original six member states of what later became the EU decided to set up an independent policy proposer: the Commission. Since the mid-1980s, the member states have changed the rules governing the appointment of the Commission and the adoption of legislation in Brussels. To understand the policy implications of these institutional changes, we have presented a complete information model of Commission appointment and the EU legislative process and illustrated the application of this model with some real-world examples.

The reforms have led to more European Parliament involvement and majority voting in the Council. Originally, Commissions were appointed and policies were set by a unanimous Council. Thus policies ended up close to the status quo. In the mid-1980s the Council started to use majority voting to set policy, which was allowed by the original treaties but not used on most issues until the Single European Act and the parallel programme for completing the single market by the end of 1992. As a result of this change, policies that were further from the status quo could now be adopted, which was one of the key reasons the EU was able to establish a single market. However, at that time, the Council still needed unanimity to appoint a Commission. The choice of a Commission thus allowed the Council to commit to a legislative programme that was preferred to the status quo by all member states.

In the early 1990s the European Parliament became more involved in the legislative process as a result of the new codecision procedure. Its approval was required in a number of policy areas, and it could amend policies in those areas with the support of a majority in the Council. This reduced the Commission's powers, because it could no longer control the amendment process. Policies could thus end up further from the status quo than prior to the Maastricht Treaty, and in their choice of a Commission the member states could no longer commit to a legislative programme preferred to the status quo by all member states. This could lead to dissatisfaction in some member states about the role of the Commission and a tendency for the member states close to the status quo to force the other governments to accept status-quo-minded Commissions.

Since 2003 the Commission has been appointed by a (qualified) majority vote by the governments, rather than by unanimity. As a result, Commissions with ideal policies further from the status quo can now be appointed. However, the policy impact of a more radical Commission has been constrained by the preferences of the governments and the European Parliament in the legislative process and the checks and balances for adopting legislation. EU policies still require an oversized majority in the Council plus a simple majority in the European Parliament, which together represent a high threshold for the Commission.

Notes

1. In this article we focus on the SEA's introduction of QMV rather than the later extensions of its use. In reality, the adoption of QMV in the legislative process has been more gradual than we assume in our model. The SEA also introduced a new legislative procedure that increased the European Parliament's powers, known as the 'cooperation procedure'. This new procedure granted the European Parliament a conditional veto right, which could be overridden by a unanimous Council only. For simplicity we assume that this procedure in practice operated like the consultation procedure. The cooperation procedure has since been abolished.

2. Strictly speaking, the Prodi Commission was appointed under a slightly different procedure introduced by the 1997 Amsterdam Treaty, which granted the European Parliament a veto right concerning the nomination of the President. We do not focus on the Amsterdam reform in this article, however. What matters in EU policy-making is the location of the dimension-by-dimension median Commissioner rather than the location of the Commission President, as will be seen below. As a result, the Maastricht reform rather than the Amsterdam reform is the important one. The Amsterdam Treaty also gave the Commission President the right to veto the appointment of the other Commissioners, but we do not consider this change because the member states and the European Parliament would not nominate a President who would veto the Commission they want to appoint.

3. The EU uses strict germaneness rules and adopts no omnibus legislation. As a result, legislative proposals in the EU involve fewer issues than in the United States, and fewer than a legislative programme. We recognize that, even then, legislative proposals naturally involve more than one issue and that vote trading over different issues is possible, but we do not consider it in this model. For logrolling models of EU policy-making, see Bueno de Mesquita and Stokman (1994), Crombez (2000), and König (2002).

4. Multidimensional models of policy-making would lead to similar conclusions. Commission proposals would need to satisfy the same conditions to be adopted. The analysis would be more intricate, however, because the pivotal member states, MEPs and Commissioners would be different depending on the direction of policy change considered. There would thus be more relevant actors. The graphical representation of multidimensional models of policy-making would also be more complicated. For the purposes of our analysis no additional insights would be gained, however.

5. We ignore the Council's right to unanimously amend proposals, because it is unlikely that the Commission has such extreme preferences on an important aspect of a major policy proposal that all member states want to move away from it in the same direction.

6. If the Council and the European Parliament approve different versions of a proposal, a Conciliation Committee is convened (of representatives of both institutions), which tries to work out a compromise, referred to as a joint text. If a compromise is reached in the Committee, it is submitted to the European Parliament and the Council for approval.

7. The dimension-by-dimension median may or may not be the President. The President could use his/her increasingly important role in the appointment process to compose a Commission that closely reflects his/her preferences, to make sure that he/she is the median Commissioner on each dimension. Obviously the President, the MEPs and the member states do not have perfect information on the potential Commissioners' preferences. Furthermore, the President may in reality not have as much power in the appointment process as the treaties suggest. For these reasons, the Commission's median on a dimension may divert from the President's position.

8. In reality, the political actors have incomplete information, of course. In fact, the presence of incomplete information is often used in the literature to explain why political institutions delegate rights to committees or agencies. One common explanation is that delegation provides incentives for specialization. See Gilligan and Krehbiel (1987), Epstein and O'Halloran (1994) and Franchino (2004), for example. In this article we do not study why institutions delegate and how they can do so in an optimal manner. We focus on the treaty reforms and how they have affected the appointment of the Commission and EU policy. We do not need to rely on incomplete information to provide answers to these questions.

9. Our conclusions hold for any location of the status quo. Its particular location in the figures was chosen for illustrative purposes only. Once EU policy is set during a Commission's term, it becomes the status quo for the next Commission. When a new Commission is appointed, the actors' preferences are likely to be different and policy may be altered as a result. We focus on such cases because there is no point in showing a figure in which policy cannot be moved away from the status quo.

10. In Figure 4, the European Parliament is represented as a unitary actor for simplicity. The European Parliament considers more than one dimension when it votes on the President. More accurate figures would thus show the ideal policies of all MEPs and the set of policies that have majority support in the European Parliament. Such figures would be too complicated, however.

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