

Institutions Matter: Negotiating the European Union

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Institutions Matter : Negotiating the European Union

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I. INTRODUCTION

Negotiation analysis mostly concentrates on face to face constellations between two or more negotiators whose emotions, competencies, visions, leadership, skills, personal styles, strategies etc. determine the outcome of the negotiation process. Notwithstanding the importance of such factors we want to concentrate in this contribution on the environmental factors which also determine the negotiation process ; such structure related factors are institutions in the broad sense of the term comprising assemblies, norms, rules, values, ideologies, cultures, symmetric or asymmetric constellations etc., hence all those factors which influence a negotiator's action besides his own personal qualities.

The model of analysis (see below) in its simple form concentrates on the relationship between the actor and his environment ; the outcome, then, depends on the particular shape this relationship takes and, more specifically, the outcome differs according to the different institutional settings.

Our empirical domain is the regime that has become the European Union (EU), with its communitarian and its intergovernmental institutions. The main hypothesis states that these two institutional patterns lead to different outcomes. In choosing the EU, we concentrate on its various bodies of decision-making as the institutional core of negotiations.

Negotiations and decision-making¹ are central to pluralistic and representative democracies in a wide range of political bodies. Decisions in the political sense of the term are, in general, made by small groups for a greater community (Pfetsch 1995). In assemblies that function as organs of representation, decisions

1 In this contribution we use the terms negotiation and decision-making interchangeably. The term decision-making is a broader term in that it covers the outcomes of the negotiation process and in addition decisions brought about through voting and balloting. The outcome of negotiations are decisions, but not all decisions are achieved through negotiations. The terms negotiation process and decision-making process can be used synonymously.

are reached through negotiation, voting or balloting; the negotiation process leads to decisions but not all decisions are reached by negotiation. By studying the negotiation process we study at the same time one of the two or three decision-making processes. Their arena consists of various levels of private and public organizations of and among political institutions such as the different organs of the European Community. By choosing EU-institutions we restrict ourselves to elected political elites, selected administrators and representatives of private organizations. The public is itself not present but is represented, and is the subject of the various outcomes of negotiation—and decision-making processes. The legitimacy of the EU-institutions is questioned with decreasing acceptance-rates by the electorate in various member countries. By this the elite institutions are challenged and have to respond during their discussions at the 1996 Intergovernmental Conference (IGC) for the reform of the EU.

In describing our empirical field which is the European Union; (EU) with its predecessor organizations we proceed from the general to the specific.

As a general characteristic the EU with its supranational institutions (the Council, the Commission, the Parliament, the Court) is, compared to other international organizations, the most integrated form of international cooperation; other international organizations are intergovernmental by nature. The community institutions of the EU can make binding decisions with majority voting and they can sanction deviations from these decisions. In other international arenas, only the Security Council of the UN together with the International Court of Justice are invested with these powers. But the EU with its European Council and its Council of Ministers is at the same time an intergovernmental organ; thus the Community was from its beginning “a two-track enterprise” (Pfetsch 1994: 120). With the 1992 treaty of the European Union these two methods of cooperation have become more differentiated: The so-called first pillar, which is mainly the single common market, is characterized by collective governance where the community institutions play an ever more important role. The second (Common Foreign and Security Policy, CFSP) and third (Justice and Home Affairs, JHA) pillars are intergovernmental by nature; thus they are characterized by cooperation among and concertation with the individual governments as main actors.

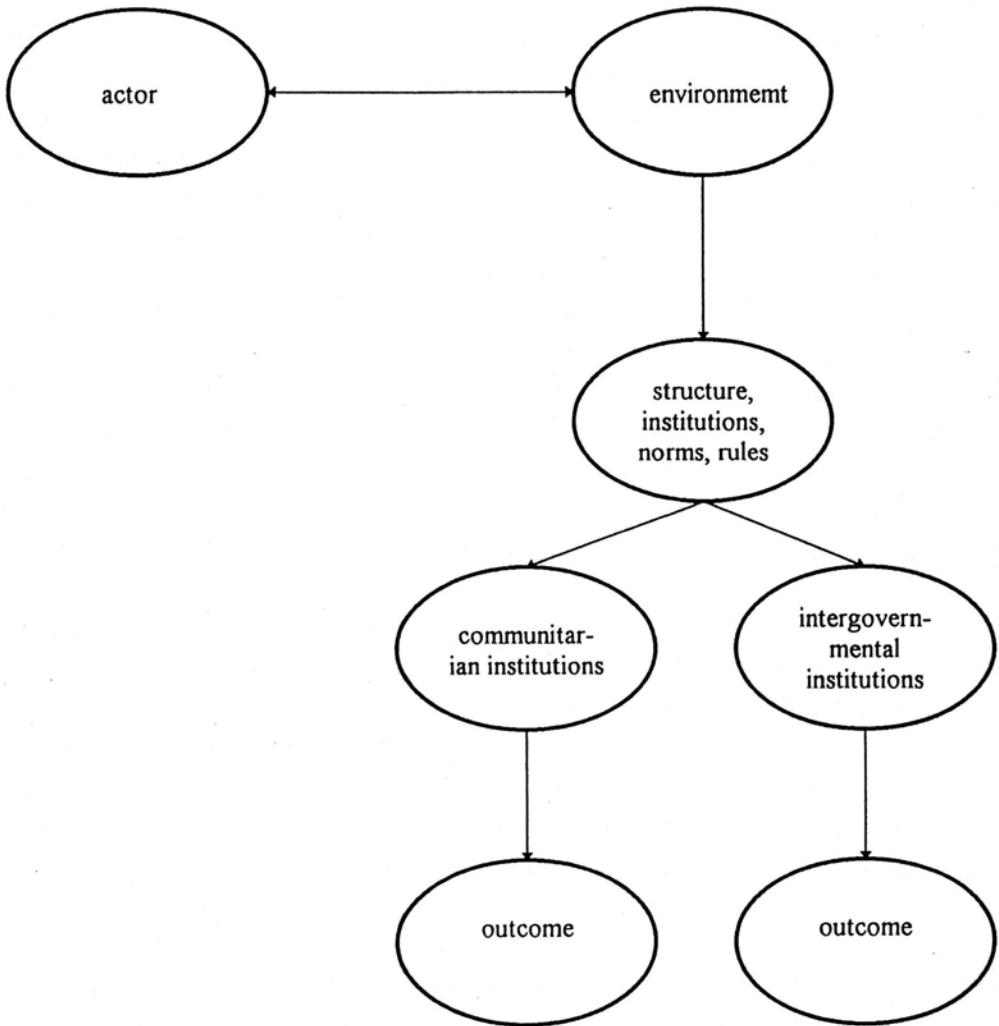
The European Union has been characterized as a “negotiated democracy” (Scharpf) and negotiation is seen as the “predominant policy mode” (H. Wallace). Such a system embraces a multitude of heterogeneous actors with different policy styles and lobbying practices, bound together in overlapping networks, engaged in shifting coalitions, moving within and across the different levels of the EU-system (Kohler-Koch 1994). Negotiation theories normally underline

the positive effects of cooperation in that it binds actors together in view of a common goal, in that actors can learn about the differences of interest, and in that they can steer intentionally their cooperation. With some reservations², these positive effects of negotiations can be demonstrated. Negotiations within the EU are facilitated by the existence of a supranational institutional framework, which creates stable communications through repetitive games with the same players, facilitates the information flow, improves decision-making through the existence of stable procedures which make expectations more calculable, promotes the community spirit and stabilizes the implementation of decisions and, if necessary, sanctions deviations. It is this communitarian institutional framework which allows such positive effects. In the center of this institutional network are assemblies in which negotiations take place. They can take the form of committees, ad-hoc expert meetings, ministerial meetings, meetings of the commissioners, reunions of parliamentary bodies, conventions of the heads of executives etc. The "comitology" functions as a key instrument of negotiation and mediation.

Research on the conditions and explanations of the negotiation and decision-making process has focused on a multitude of factors, concepts and approaches. The history of political thought has concentrated on external determinations of decisions, such as the materialistic determinism in Marx' tradition, or on internal conditioning, such as Schmitt's occasional "Dezisionismus", Saint-Simon's positivism, Schelsky's concept of technical necessity (Sachgesetzlichkeit), Sorel's collective spontaneity, or Max Weber's poetic subjectivism. These mostly anti-democratic positions do not match the reality of decision-making in the real world of representative democracies. Instead, we have to deal with multi-issue, multi-layered and often multi-cultural processes of interaction between actor(s) and environment(s) (Müller 1973: 48).

Here, we focus on an important part of the possible forms of "decision-making and solution-finding" (Welsh 1973), that is collective decision-making in the EU-bodies since they are the most common decision-making institutions in representative democracies (Taylor 1975: 417). Giovanni Sartori has defined assemblies as durable and institutionalized small groups of three to thirty members (Sartori 1984: 93). They are in direct interaction and produce decisions continuously rather than occasionally. The assemblies we are studying in the

2 In some cases selfbinding of actors can complicate understanding; see Genschel/Plümper: *Kommunikation und Kooperation in der internationalen Bankenregulierung 1996* (Conference paper, Arnoldshain)



Model for Analysis

EU-context mostly fit this definition. Thus, we take as the empirical base of negotiation processes the communitarian and the intergovernmental organs of the EU, i. e. the Council of Ministers and the European Council, together with the national bodies of the EU member states, as the main intergovernmental institutions, and the European Commission, the European Court of Justice, the European Parliament as the main communitarian bodies.

This chapter identifies the determinants of the complex group-processes within the European Union, and explains the relations between decision-production through negotiations and its conditions and consequences. What does negotiation—and decision-making theory tell us about the policies of the

EU and in what way does it help understand and explain the very specific political process of the EU? Are there any differences in the negotiation process between the community method of collective governance and the inter-governmental method of cooperation between governments? This last question is in the center of our inquiry.

Analysis of decision-processes in assemblies has become a multi-disciplinary enterprise. We draw from the findings of social psychology, sociology of organizations, political science, economics, mathematics, among others. We proceed with interrelated hypotheses which are tested in various contexts and which can reproduce the horizon of an integrative decision theory as an outcome of negotiations. From a theoretical point of view, assembly negotiations function as a pool of different interests of their members that should eventually lead to a common policy. A wide spectrum of voluntary or coercive procedures and techniques can lead to the aggregation of individual preferences for a collective decision: economically through market forces (through bargaining and exchange), or politically through consensus-producing processes (negotiating, voting). Power resources and their application play an important part in a process with multiple preferences.

Assembly-decisions are usually not reached by a single act. They are the result of complex processes and structures involving a multitude of persons and opinions. Pre-existing fixed interests are rarely the initiator of these processes according to a utility function. Instead, opinions and structured decisions are formulated during a dynamic trial and error process prior to the voting. It is in negotiations as a part of 'preparatory' diplomacy or problem-counselling that the issue area is defined and decisions are prepared. The meeting in the lobby, the walk in the woods, the ground of golf, the dinner reception and other locations are such places where influence is manifest and approximation attempts are made or even solutions found. Formally, the decision-process takes place in a given framework, in which the decision-makers pursue their interests. They have instruments at hand which cause costs, risks or benefits.

Internal and external conditions, instruments, targets, costs/benefit considerations and the outcomes are five basic variables of a decision-process. In detail we deal with internal conditions such as:

- size,
- duration,
- composition (organizational differentiation, political party composition),
- representativity,
- ideological or programmatic orientation and
- the issues to be decided on.

External conditions are:

- binding and non-binding character of decisions,
- pressure exerted on the negotiators,
- future expectations of action and, foremost,
- rules and procedures of decision-making.

As instruments we deal with

- use of power, influence and leadership,
- coalition-forming,
- setting of quotas and proportions,
- enlargement or differentiation of subject-matters,
- exchange or linkage,
- delay through submission to committees or ratification,
- escape into generalizations or ideologization.

Outcome variables are:

- non-decisions,
- partial decisions,
- radical decisions,
- ambiguous decisions,
- majority decisions,
- stable decisions,
- conservative or progressive decisions,
- future oriented decisions.

These various variables of our analytical model are linked together hypotheses which are empirically tested with case studies from different empirical domains and illustrating examples. In such a way our analysis strives at middle range theories which help to explain the negotiation processes.

The underlying premises are twofold: on the one hand, more integration of European states leads to a more peaceful living together of the war-prone arena of Europe; on the other hand, a federal pattern of this regional system is the best way of securing diversity within unity. Hence, the often-quoted success story for which the EU stands can be measured by these two finalities. Other measures of success, however, must equally be considered such as people's welfare, democratic participation, human rights, the environmental protection, quality of life, etc.

II. FRAMEWORK

We distinguish between internal and external conditions of negotiations in assemblies and between factors which can be influenced by the actors and those

which cannot. Whereas the former distinction is in the center of the agent-structure debate, the latter refers to the distinction between objective and subjective factors of the negotiation process. Internal conditions are related to the assembly itself, and the external determinants stem from a broader set of norms derived from the political community as a whole. Pre-existing conditions or conditions that cannot be altered by the actors immediately determine the structure of the negotiation bodies. On each of these aspects we establish hypotheses which we later-on test with regard to the European Union.

III. STRUCTURES AND CONDITIONS

We start studying the internal and external conditions of the negotiation process in groups.

III. 1. The internal structure of assemblies

As to the internal structure, there are a variety of variables determining the structure of assemblies like size, duration, composition (organizational differentiation, political party composition), representativity, ideological or programmatic orientation, and issues to be decided.

III. 1. 1. The size of assemblies

The size of an assembly effects its structure as a working unit. Derived from organizational theory and empirical observations, we can establish a number of hypotheses :

HYPOTHESIS I : The bigger the assembly, the more it becomes organizationally differentiated (committees, sub-committees),

A day to day observation can illustrate this hypothesis. By inviting people for dinner and sitting around a table, one can observe that conversation among all the guests is possible as long as there are not more than about eight guests (see Olson 1971 : 52-55). If there are more than ten to fifteen (Pfetsch 1987), then the discussion takes place among three or four sitting each other.

We can test this hypothesis (see Thomas & Fink 1963) by studying the different EU-assemblies in course of the enlargement of the EC from six to nine, nine to 12 and finally 12 to 15 members. The more the Community expanded in scope and membership the more it became heterogeneous and negotiations more bounded by the circumspection of many participants (H. Wallace 1995 : 33).

The plans of some governments at the 1996 Intergovernmental Conference (IGC) to reduce the number of commissioners and strengthening the Presidency of the Council is one strategy to overcome further differentiation and, as a consequence, inefficiency. With increasing numbers of actors there is also the

chance that more issues are put on the EC-agenda as compared to a national agenda (Cobb and Elder 1983). I. e. each enlargement brought new dimensions and areas of activity (see Granell 1995 : 137). The first enlargement brought in a more democratic perspective and a new world dimension with its transatlantic relations. With the second enlargement new social and cohesive orientations were brought to bear with Latin American links. The third wave of enlargement emphasized environmental and social aspects and opened an outlook to Third World countries as well towards the East with expectations for the fourth round of enlargements. These expansions enlarged the policy issues, and, as noted by Peters, "the presence of alternatives is an important characteristic of agenda-setting in the EC" (Peters 1994 : 18). The more there are issues considered to be important, the more there is a necessity to find an organizational flame in the form of a Directorate General (DG), a committee or otherwise. Thus the committees of the European Parliament reflect the DGs in the Commission.

HYPOTHESIS II : The smaller the assembly, the higher the ballot's value or weight for each individual under unchanged voting procedures.

This hypothesis states only a numerical calculation : if there are only two voters then the weight of each is 1/2. If there are ten voters the weight of each is only 1/10. The smaller the unit of decision-making is, the more the preferences of the participants count (see Tullock 1971).

The search for securing equal representation and keeping the assemblies small is evident in the construction of various EU-organs. Qualified majority voting, as well as the introduction of the rotation system in the Council of Ministers, follows on these lines. The troika-solution enlarges the mandate of each country in the political process. Because of the fear by the bigger states of losing control of the decision-making bodies, the provision was introduced that one of the bigger countries must be represented and arguments were put forward in the IGC to restrain the scope and the authority of the community arenas. On the other hand, because of the fear of losing equal rights and weights, the smaller countries are against any concentration of office-holders in EU-organs.

HYPOTHESIS III : The higher the number of participants is, the higher the costs of producing consensus (internal costs are), and the less the disadvantages for the individual voter (external risks) are.

The first statement refers to more or less organizational circumstances : the more participants there are, the more time is needed to produce consensus and, consequently, the more costly the production process of results is. Internal costs comprise such costs as bargaining and influence costs, implementation and monitoring costs, information costs, etc. (Cornett & Caporaso 1994 : 226). As to

the external risks (Sartori 1984 : 85) there is a tendency that results produced by a small group of insiders leaving out important politicians and people who are affected by the decisions taken are not accepted and, consequently, do not last long (see Buchanan & Tullock 1962 : 45). Amendments are the result of such restricted decision-making processes.

With more actors coming in, as in the enlargement of the EC/EU, the more diverting interests are being pursued. Each country brings in its own interests and wants them to be pursued. With an increase in number an assembly becomes more heterogenous and the windows of opportunities for agreements have become narrower (H. Wallace 1996 : 33). Hence, with unanimity in important policy fields, the time needed to achieve consensus increases. It can be said that the amount of time spent on discussions of issues increases with the increase of member countries in the EU.

Disadvantages for an individual actor would arise if he were victim of a "tyranny of the majority" (Alexis de Toqueville). This, however, rarely happens because of the voting rules expressed in the treaty and the voting practice in EU organs. As a rule, decisions are taken on a consensus basis even in cases where majority voting would be possible. It is part of the community spirit not to vote down a country by pushing through a decision with the majority rule.

III. 1. 2. Duration

HYPOTHESIS IV : The less time is available, the easier it is in a system of majority voting for leading majorities to win.

Decisions taken under time pressure have a tendency to be pushed through by the majority party that does not take into account minority positions. The dictate of the majority prevails even if there is the political will to include minority positions. On the contrary, if there is no time-limit, the parties can seek consensus on a broader scale.

In the EU this hypothesis can only be tested in a selected number of policy fields, since unanimity is still required in the domain of high politics. As mentioned above even with majority voting the consensus principle is dominant in EU organs. It has to be seen if this hypothesis remains true in the future, when more majority voting is possible and where the advantage is with bigger countries that possess more weight in the Council ; in principle, no decision can be taken by smaller countries without the consent of the bigger ones. Also, as a principle and more in theory than in practice, there should be no discrimination of any one group—be it rich or poor, north or south, central or peripheral, agrarian or industrial, etc.

III. 1. 3. Composition

HYPOTHESIS V : Subgroups within an assembly can, by forming coalitions

with others, reach a majority position and minimize the influence of an existing majority. Minorities can also benefit from a situation where two or more majority groups of equal size with opposing views counterbalance their weight and have to rely on the support of smaller parties.

Under certain conditions minorities get their chance. According to our hypothesis, small groups have either no influence at all or some influence taking into account their relative weight (see Moscovici et al 1969, Allan 1984). This can be the result of the behavior of the majority groups towards each other. If the bigger countries cannot agree on a particular issue, the smaller ones get their chance by joining the one or the other and vice versa. Various winning coalitions can be calculated according to the weighted votes in the constituency with majority voting (see Brams et al. 1994 : 100) and vote-trading (Riker and Brams 1973/74).

Coalition forming in EU organs is an ongoing process and does not show a stable pattern (see IV. 2 below). There are various coalitions possible depending on the issue. As a political rule, without the endorsement of Germany and France no major development can go ahead (Lodge 1991 : 7). Even the German-French tandem recently deviated from its unity on agricultural policy. A good example of using differences among parties within an assembly was the tactics applied by the US government toward the EU during the negotiations in the Uruguay round (Landau 1996). The US negotiator succeeded in splitting the German-French tandem and by forming an alliance with Germany could get its position through.

III. 1. 4. Representativity

HYPOTHESIS VI: Decisions are more likely to be stable when an assembly is highly representative, consensual and without pressure to decide. The follow up costs are usually lower.

This hypothesis states the other side of the coin formulated in hypotheses III and IV. If an assembly is representative and time is available to discuss extensively, then it can include the major actors with their interests. Consequently, the outcome of such negotiations is highly legitimized (Marin 1983 : 205) and has a tendency to last longer. One of the unique principles of the EU is that it tries to create a homogenous pattern of policy representation (Pfetsch 1995 : 189). The small countries should be able to have their say as much as the poorer and the peripheral countries. By equilibrating these various differences and diversities, the EU is attractive also to minor states in terms of power. Otherwise it could not be understood why smaller countries like the Benelux-countries are among the champions of European integration.

So far the decisions initiated by the Commission and taken by the Council

are fairly stable in the sense that a high proportion of them are implemented in the member countries ; they last long since equal representation is the dominant principle in EU organisms. Even decisions made with time restraints like those on agricultural policy or on the budget show fairly stable results.

III. 1. 5. Ideological and programmatic orientation

HYPOTHESIS VII: The ideological and/or programmatic proximity of organized member-groups reduces the spectrum of controversial alternatives and leads to coalitions. This produces a high consensual potential as a prerequisite for solutions.

Ideology can aggregate diverse interests and can serve as a unifier in the decision-making process. In parliamentary systems governments are formed on the basis of "natural allies" procuring maximum payoffs for the participating parties (Dodd 1976 : 38). This empirically tested relationship rarely holds in the case of EU-parties since they do not possess that coherence observable within national constituencies. Nevertheless, some alliances may be formed on the basis of ideological vicinities.

Party alignments do not play a decisive role in the Council or in the Commission or even in the European parliament. In national constituencies parties provide a mechanism for co-ordination of policies across levels of government or across institutions. Fragmentation is, among others, the result of the fact that neither the European Council nor the Council of Ministers possess party affiliations as a coordinating instrument. Political parties within the European Parliament are aggregations of national parties ; they lack the unity required for a more coherent policy. On the executive side the European Council and the Council of Ministers are intergovernmental entities separately responsible to their national constituencies. What brings them together is a common interest in the European project and the advantages that they can expect from it in terms of national policy-making. As for the executive and legislative bodies of the EU it is argued that the styles and cultures of the Commissioners are as important as specific calculations about national advantages that might result (Peters 1994). Here, the professional styles and the political cultures of the various countries may play a role. It is said that within the Brussels apparatus the French administrative traditions are documented by the fact that the French language is used more commonly than other languages. Externally, however, English is the more commonly used language.

Ideology is, therefore, not an important factor. More important factors of consensus-building are the common will to build Europe, the visions on the Union's finalities which induce certain institutional patterns, the will to secure a country's interest in a specific matter, a common economic interest in bigger markets (large scale production), and the pressure from outside by globalization-

processes, among the most important.

III. 1. 6. Issues

HYPOTHESIS VIII: A greater amount of material and conflicting issues facilitates compromises and the settlement of controversial issues. Multi-issues facilitate compromises.

In general, economic goods are accessible to division, diversification and differentiation. Quantity and quality, price-cost relations, the factor of time and space etc. are opportunities for give-and-take, for package deals, and for substitutive and/or compensatory deals (see Sebenius 1991). Even in case of indivisible goods, i.e. a good "that cannot be split physically into parts, and concerns that cannot be compromised on" (Albin 1991 : 47), there exist a number of compensatory and functional strategies to overcome a deadlock in negotiations. Additional issues can be added, resource expansion can facilitate solutions. An example is the deal among the Twelve about the site of the central bank for the European Union. In the decision about the central bank (which is now in Frankfurt) other European institutions like the European Environmental Agency (Copenhagen), Europol (Den Haag), European Drugs Agency (London) etc. were included and by that other countries got their share.

A compromise is facilitated by dealing with divisible goods. This is so because, among others, such goods are accessible to a give-and-take and are not highly value-loaded. But even in the case of indivisibility and non-negotiable interests, i.e. value-loaden goods with symbolic meaning, there are ways of compromising through exchange and functional strategies. Cecilia Albin has shown that even in the case of the most sensitive good as is the city of Jerusalem, there are political functions which can be taken over by Jews and Moslems through power sharing (Albin 1991 : 45-76).

Since most economic issues are multi-issue by nature, compromises can be reached even in such fields as agriculture. The Single European Act was presented by Jacques Delors "in large bunches". Other new items on the agenda had appeared during the biannual meetings of the heads of the executives since each host of such meetings wanted to have major initiatives adopted by his colleagues. It is stated that one of the unique features of the EU is its openness towards a variety of issues and competing policies, a variety which seems to be bigger than on national agendas (Peters 1994 : 11,12)

This diversity of issues is among others promoted by the various commissioners in the Commission. Each one has personal ambitions. Commissioners can use activism for reviving their political careers either on the national or on the European stage (Peters 1994 : 14). The fragmentation of the Commission gives room for such maneuvers since the borders of the DGs are not

always clearly defined. Thus environmental policy falls in the competence of DG XI and the 'Euro-Quango' of the European Environmental Agency. But other DGs have their say in this policy field like the DG XVI for regional affairs. The absence of adequate co-ordination mechanisms known in national governments such as party alignments or inter-ministerial bodies leads, on the one hand, to more openness for policy initiatives; on the other hand, it makes the formation of a coherent governmental policy difficult. This lack of an "adolescent bureaucracy" (Mazey and Richardson 1993) allows an advocate of an attractive issue not only to have the issue considered but also to have it considered in a particular format by a receptive DG.

It is not only by differentiation of issues that negotiations are facilitated, but also by a characteristic of the EU. With the increase of numbers of participants in EU organs the number of issues increases as well. There are more issues to be negotiated than in national constituencies, hence there is an increase in negotiable issues at hand.

III. 2. External conditions

Conditions external to the actor determine the negotiation process. We understand by this the binding and non-binding character of decisions, the pressure exerted on the negotiators, future expectations of action and, foremost, the rules and procedures of decision-making.

III. 2. 1. Binding and non-binding decisions

HYPOTHESIS IX: Binding decisions affect the content (substance) and rules of the decision-process, The more binding decisions are, the more they tend to be pragmatic and bundled; non-binding decisions are more radical and emphasize extreme positions.

The non-binding nature of decisions leaves the decision-maker with less responsibility as to the implementation of the decisions taken. Therefore, radical positions can serve as a means to integrate parties on a common platform vis-à-vis an adversary (Rothstein 1979). Binding decisions force the parties to look out for positions which allow their implementation in a later stage.

Decisions taken by the Council of Ministers in Brussels can serve as examples for the latter, the voting in the General Assembly of the UN as examples for the former. The binding nature of decisions is the distinguishing feature of the EU compared to other international organizations. Since EU-"regulations" are binding in their totality, "directives" in their goals and "decisions" in individual cases, pragmatism prevails and radical positions do not get a chance. Only if a member government wants to avoid a decision it might use a radical proposal and then veto it.

III. 2. 2. The degree of pressure on decision-making

HYPOTHESIS X: External or internal pressure on the negotiators to produce results can either facilitate compromises or harden the positions.

Last minute decisions can result from the pressure given by a strict time table. The manipulation of the time table, i. e. to stop the clock, as shown during negotiations on agrarian policy or in the recent GATT-negotiations, is the last resort to reach an agreement in time. This time pressure can be healthy because it forces the parties to come to an agreement at all; without such a pressure no resolution may have occurred. External pressure can, however, have a negative effect on the negotiating parties in that they react negatively upon such pressure. External pressure can also serve as an alibi for a policy.

In the EU arena decisions often have to be taken at a certain point in time. In debates on agricultural issues or on the budget, time pressure secures to a great extent the making of decisions. Pressure on the decision-makers comes also from external pressure groups which, as a consequence, may block a consensual decision in EU assemblies. Dominant basic values and overarching general priorities can compensate such pressure; this may lead to second best solutions for individual countries.

III. 2. 3. Future scope of action

HYPOTHESIS XI: The numeric voting-power not always dominates in a system of majority voting. Besides pure voting power other considerations of the political environment may determine the voting behavior as well, such as future expectations (obligations towards an external/foreign power, future coalitions, maneuverability of future governments, estimates on future voting behavior etc.).

Future expectations play an important role in EU decision-making. The securing of support for future actions has often been a consideration for a compromise in a present action. The prospect of preventing military quarrels among European countries in the future was an important unifier and has so far determined the will of European, especially French and German politicians to develop interdependent structures. Also, the vision of the future can guide negotiators in their actions. A driving force for the development of the European Community has always been the will to achieve an integrated ensemble of states. In addition the often quoted "shadow of the future" (Axelrod 1984) is a way acquainting negotiators with each other, and thus, by forming an esprit de corps, decisions are made by customary arrangements.

III. 2. 4. Rules of decision-making

HYPOTHESIS XII: In assemblies of high basic consensus, majority-rule in decision-making is a common practice. In highly heterogenous assemblies, unanimous decision-making is preferred. The necessity to decide unanimously (even

unwillingly) increases with the heterogeneity of the assembly.

Unanimity as a decision rule gives each member of an assembly a veto position and, by this, preserve the member's interests. Majority vote to the contrary gives an assembly the right to reach decisions against members. Therefore, if an assembly accepts majority vote, this is a sign of greater consensus and a basic common denominator. In the EC-discussions in the 1960s the six members were not yet prepared to accept qualified majority vote in the Council of Ministers ; the Luxembourg compromise (1966) indicated a lack of basic understanding. The same unwillingness can be observed in the Security Council in the UN. The consensus minus one formula that was introduced later-on can be seen as one step to enable decision-making in cases against the member's own concern. Also it is used in multilateral for that no-votes count as abstention but consensus prevails. The same holds for the compromise found in 1997 at the Amsterdam conference of the EU with the formula « constructive abstention » which means that a motion can pass even if one member country abstains in the Council of Ministers.

The importance of this hypothesis is shown in the discussion to proceed from unanimity to the majority voting in the EU-Council. The reluctance by some of the member-states to introduce majority voting on issues of high politics shows that these countries are not yet prepared to give up their veto position ; this is at the same time a cause and a sign of heterogeneity in the EU.

HYPOTHESIS XIII : The internal costs of the negotiation process rise when decision-making rules approach unanimity ; the external costs will decrease.

The rule of unanimity demands more time and effort to produce outcomes than majority voting. The year-long negotiations in the different GATT rounds or the SALT negotiations show the difficulties in reaching agreements under conditions of unanimity. The GATT agreements lasted for the agreed-upon period ; the SALT I and II agreements were finalized only after revisions and modifications.

Countries which favor majority voting do so—among other reasons—in order to secure effectiveness and efficiency. In some instances a quick reaction is necessary especially in situations of crises.

HYPOTHESIS XIV : The rule of unanimity supports outcomes that are oriented to the status quo, because a re-distribution of the (unchanged) decision-material would disadvantage at least one party.

The difficulties in reaching consensus by all participants often reduce the field of alternatives to the smallest possible common denominator. The risk of change is usually higher than it is for keeping the status quo and, therefore, parties can either avoid decisions or propose blue sky formulas (Bachrach &

Baratz 1963, Fraenkel 1968 : 66). Therefore, the tendency to produce conservative decisions prevails, if everybody has to agree and nobody loses against his own will. Likewise, the UN Security Council rarely made decisions against a member state when it was involved in a given crisis.

Usually, in the fields of high politics the status quo is preserved, and, by that, vital interests are guaranteed and disadvantages to one of the member states avoided.

IV. INSTRUMENTS

The use of material and immaterial resources is of strategic importance to the purpose and the assertion of interests. These resources cannot be seen apart from the above discussed structural conditions. Instruments of decision-making and techniques to influence decisions are :

- use of power, influence and leadership capacity,
- increase of consensual potential through coalitions,
- setting of quotas and proportions,
- enlargement or differentiation of subject-matters,
- exchange or linkage,
- delay through submission to committees or ratification,
- escape into generalizations or ideologization.

IV. 1. Power, influence and leadership

Hypothesis XV : Power and influence based on resources can determine the outcome of negotiations in favor of their user. Unequal distributions of power cause struggles among the different groups and are energy consuming.

Power and influence of individuals or groups in an assembly are based on internal and external sources. Members of representative political assemblies rely on their power-base, e.g. the voters, who determine the extent of their representation. The clientele of an assembly member is an outer limiting factor to his "weight", since not only the backing of his voters but also economic, ideological and reputational resources are important. Among the four sources of power identified by Crozier that are in the hands of organizations, two can be described as outer sources: control of the environment and control of the information and communication channels. Inner sources are competence and the handling of organizational rules (Crozier/Friedberg 1979 : 50). The specific office and person are the subjects of power from internal sources. Instruments based on power resources may consist of pressure (threats, promises, black-

mailing, deception) from an external power or from a decision-maker with an extremely strong power-base that is exerted on a weaker partner or adversary. Such pressure—which also can be used by a weaker party with may-be less success—can either force a solution or impede the decision-making.

Robert Michels (1989: 46) was among the first who tried to identify the sources of leadership in organizations. He differentiated technical-administrative, psychological and intellectual sources. The scheme elite-masses served as a base to the iron law of oligarchy. Michels' explanatory model describes certainly just one extreme position of an assembly's organization, that is one of extreme size that favors the stabilization of the leadership position. Socio-psychological experiments have shown that groups are not necessarily more prone to make decisions than individuals. To the contrary, in order to activate a group the courage to take risks must come from a "born leader" (Irle 1971). During conferences and meetings one must not underestimate the authority of the office itself that is given to the negotiator (discussion leader, president of parliament, chairman of the conference); he can influence the agenda and the outcome of a conference by formal and informal diplomacy, informative traveling before the conference, opening speeches, scheduling, convening of the conference, deciding on the order of speakers, using the media, drafting the final declaration and further use of the procedural and organizational rules (Raven 1965: 371-382, Kaufmann 1968: 50, 76-79, 83-101). The target to bring the conference to a conclusive end demands a refined diplomacy vis-à-vis the group members.

These techniques are used extensively by the presidents of the EU. Every government holding the presidency invests a lot into the half year term for its own prestige and the initiation and implementation of political interests and visions. Also, a skillful and strong president of the European Commission can considerably influence the development of the Union. Strong figures like Hallstein and Delors have left their traces, whereas others acted more within the Council. Hence, the role of individual politicians with their skill, knowledge, visions, endurance, health conditions etc. can certainly be important to the decision-making process. In the approaches of rational choice the actor is considered as a rational maximizer of his or her utility. The reality of decision-making in EU organs with a multiplicity of actors and solutions does not correspond to that preconceived rational utility acting. "Preferences are unstable and uncertain and the decision that something needs to be done often creates the preferences rather than vice versa" (Peters 1994: 20).

Each assembly has the task to produce results, that is decisions. It is as evident as necessary that this needs energy. This energy can be consumed by

internal struggle and nothing is left for external problem-solving and decision-making. A more equal distribution of power and influence and, thus, a more balanced situation becomes possible when, for example, the chairman and the host country are named by a rotation system or when the host country is a neutral state. In this case the dominance of one state and his representatives cannot originate from organizational or local advantages.

Deviances in the numeric size of one party and the subsequent effects on decisions can also be explained with the talent and the persuasive power of politicians. Decisions can be influenced not only by the authority of an office, but also by the authority of an individual.

The EU-member states possess different national resources measured by size, population, economic capability, military strength, etc. But it is one of the characteristics of the community to secure equal representation in the different decision-making organisms. This is done by weighing votes, by rotation in offices, by equal representation in EU organisms, etc. Whether this principle will last in the future is an open question.

IV. 2. Coalition-Building

Coalitions are built in order to provide a payoff to each of the participants. Every participant will expect a share of the payoffs at least proportional to the amount of resources which he contributed to a coalition (Gamson 1961 : 376). Also, it is possible that a party as a last-comer or new-comer can get more depending on his role in the coalition (see Piker and Brams 1973/74). If the payoff is bigger then the better. In the case of the EU this proportionality of gains and costs is not put into practice. There are net payers and net beneficiaries. The community spirit tries to equalize differences in wealth.

For a certain period of time agreements among coalition partners can stabilize majority decisions. Such institutionalized coalition-government are common in many parliamentary democracies. Specific agreements on certain matters, like exchange deals or personal questions, are reached through linkages. In the case of the EU, again, there is—with very few examples—no such thing as a stable coalition pattern. Nevertheless Helen Wallace has shown that in the preparation of the Single Act the French-German tandem played a decisive role in the promotion of the Act. On various occasions the relatively stable coalition France-Germany contrasted with relatively short-lived coalitions between France and Belgium. On the whole the interesting thing about coalition building is the observation that there is not one decisive criterion for such a get-together. Neither ideological alignments among Social Democrats or among Christian Democrats, nor cultural affinities such as among Angle-Saxons or among Latin

countries, nor common historical experiences (such as former war alliances) alone determine the formation of coalitions in the EU. There are rather ad hoc alliances such as among the free traders UK, Benelux, Denmark and Germany as against the protectionists France, Italy and Greece, or among the environmental leaders Germany, the Netherlands and Denmark (together with the three new EU states) or the environmental laggards Greece, Italy, Spain, Portugal, Ireland, and Belgium (Sbragia 1996: 238). Other more permanent coalitions arise from the global view on Europe's finality. There are on the one hand countries favoring a closer European Union with a more federal outlook like Germany, the Benelux, Spain, Austria and to a lesser degree Italy and, on the other hand, countries favoring looser intergovernmental approaches like the UK, Denmark and to a lesser degree France, and Greece. A third category can be added consisting of countries with a supranational outlook such as Finland, Greece, Sweden, Ireland, Portugal, and to a lesser degree France, Spain, Italy or Denmark. The differences determine to a large degree their proposals for the institutional reform of the EU.

IV. 3. Setting of quota and proportions

At least theoretically, institutionalized or informal forms of representation allow a proportional participation of the most important political and social forces (Lehmbruch 1967: 7; Nordlinger 1972: 22–24). The weighting of the votes in the European Council secures some sort of proportional representation of the member countries. In some cases the setting of quota and proportions can lead to stable decisions (Hypothesis VI) —though with limited success, because of the tensions among heterogeneous groups, or, because the quota did not include all or some favored groups.

The idea of proportional representation finds its expression in a variety of forms in all EU-institutions. The representation of all member states is reflected in the number of Parliament-seats that are approximately proportional to the size of the population; all member-states are represented in the Commission (the bigger countries have two seats) and the weighing of votes is introduced in the Council in cases of qualified majority voting. In addition all countries have one representative in the Court of Justice and the interest groups of the member countries are represented in the Social and Economic Committee. The Committee of Regions consists of representatives of states (Länder), regions, provinces or municipalities proportional to the size of the member countries. These modes of participation with proportional representation protect possible minority positions but giving nevertheless a bias in favor of the smaller countries and—by way of a veto in cases of unanimity voting or of fixed proportions—a quota for individual countries.

Another form of quotas consists in fixing a certain quantity or quality to commercial goods in the foreign trade. The agreement reached in mid 1996 by the EU culture ministers on a system of quotas on television productions is an example of that sort. The nonbinding character and the exemption of new services of the accord reflects a compromise between the French-led supporters of tougher quotas and quota opponents led by Britain and Germany.

IV. 4. Enlargement or Differentiation of the Subject-matter

The enlargement of the subject-matter to be decided through addition or exchange can lead to consensual solutions (Hypothesis VIII). In the same way, parts of a package deal can be excluded or declared non-consensual (see III. 2. 4). An example is the argument of "vital interests" in the EC's Luxembourg compromise. Another common way to differentiate an unspecified item, like oil or wages, is to split it up in parts (oil : quantity, quality, kind) or add specifics (wages : additional wage costs). Thus, a conclusion can be reached, like price-fixing or wage-increase (see Rothstein 1979 ; Pfetsch 1987 : 269/270).

IV. 5. Exchange or linkage

Further means to promote acceptable settlements of opposing interests are exchange and linkage (see Hypothesis VIII and III. 1. 6). In the US, log-rolling as a type of exchange is a technique of an alliance of specific singular interests that otherwise are not acceptable to a majority (see Breyer 1981). An older strategy of conflict regulation is the coupling of two matters and/or offices ; this was a tradition in the multi-ethnic Habsburg empire ; in today's Republic of Austria it was possible to exchange the foreign ministry post against the increase in milk prices. In the FRG, the NATO double-track resolution can be seen as a rather peculiar variant of a supposed coupling. The linkage techniques are rather common in EU-negotiations, Weber and Wiesmeth (1991) show how issue linkage can enhance co-operation and examples from the European Community, the Common Agricultural Policy, and the European Monetary System. The agreement of one particular country to a proposal from others can be linked to compensations in other fields. Especially the peripheral countries like Ireland, Portugal or Greece link their pro-European engagements to their share of the structural or cohesion funds. Another example is the negotiation of the single market where vertical measures for particular products were linked to horizontal measures such as the right of establishment (see H. Wallace & A. R. Young in H. and W. Wallace 1996 : 150).

IV. 6. Delay

In the process of decision-making there is always the danger of missing the target, of driving into a dead end or encountering a tension-loaded atmosphere. In these cases a transfer to committees is often necessary to cool down the temper, to win time or to update information. Another means of breaking a dead-lock is a reference to further regulating and executing laws. This often happens during negotiations of constitutional drafts or rules which need further specifications in the future. This strategy could mean a way out of a dead-lock where there exists an unwillingness to decide. Delays in the Community are often results of a not (yet) existing consensus in a particular policy field. I. e. when Jacques Delors took office as President of the European Commission he visited all the capitals of the member-states in order to find out possible fields of action. As a result he postponed foreign and security policies and concentrated on the Economic and Monetary Union as well as on financial issues (Delors plan I and II).

The setting of a time table is another form of delaying political programmes. A time schedule is on the one hand half-binding on the actors and on the other hand it gives opportunities to revise and modify policy plans according to changing conditions. Thus the schedule for the Currency Union with its requirements and conditions for the transition phases provides open delays or non-compliance. Something similar happened in the seventies when the Werner plan, which foresaw the realization of a Monetary Union already for the 1970s and 1980s, was not put into practice.

IV. 7. Escape into generalizations or ideologization

The escape into non-binding generalizations or radical ideologization is one form of avoiding a decision on a specific and concrete item (see III. 2. 1). The item can be disguised behind ideological phrasing (sometimes called political or "blue-sky" propositions); seen from the actor's position, the advantage of ideological catchwords is their wide-range appeal to everyone without mentioning a specific item. In this way, problematic re-distributions are avoided and a heterogenous assembly can continue to operate and demonstrate its unity to the outside.

V. COSTS AND BENEFITS

Decision-making processes produce costs that increase with the size of the assembly (Hypothesis III), though the external risks may diminish accordingly (Hypothesis III). The procedural and organizational rules, too, may influence an

assembly's running costs and/or additional costs later on. Internally, unanimous decision-making is cost-intensive, but it is low in additional costs afterwards. Majority decision-making is less cost-intensive in producing decisions, but may cause higher costs with regard to external risks (Hypothesis XIII). Another feature of the size of assemblies is the respective value of each vote. The value will decrease when the number of members increases (Hypothesis II).

In the case of the EU it has been said that negotiations cannot be understood in the light of rational choice approaches (Keck 1995, Schneider 1994, Allan 1984). Neither can we start from the basis of fixed preferences nor are rational cost-benefit calculations the basis of the establishment of procedures and EU institutions. Rather a more holistic approach such as the social communication theory seems to be appropriate to understand and explain negotiation processes in the EU and with its outside world (see Habermas 1982, Müller 1994).

VI. OUTCOMES

After having dealt with the independent variables, i. e. the conditions and the instruments of the decision-making process in assemblies, we are now dealing with the dependent variable, i. e. the outcome of the decision-making process. We will be dealing with the objectives, the assembly performance, and the outcomes of assembly processes. Outcome variables are non-decisions, partial decisions, radical decisions, ambiguous decisions, stable decisions, conservative or progressive decisions, future oriented decisions.

The analysis of decision processes has revealed a multitude of dependencies between the independent variables "framework" and "means" on the one hand, and the dependent variables "value of decisions" and "costs" on the other hand. Different parts of the framework may influence each other, or, depending on the subject-matter, means and framework are exchangeable. Dependent and independent variables may also have reversible relations. A theory of decision-making with a wider range cannot indicate the goals or, in general, the performance of assemblies in any material way, but only specify their formal aspects. The assemblies that are analyzed here all have the common feature of coming from different positions and wanting to produce a common policy; assemblies that are convened only to discuss or clarify certain points of view are not included. Structural conditions and the use of means can support or hamper the following assembly performances.

VI. 1. Non-decisions

The non-decision on a material item can be one of the results of a decision-

making process. A decision on non-decision can result from a very heterogeneous group with highly dissenting interests, or it is an intended strategy to avoid unfavorable results. Both considerations played a role during the period of the empty chair in the 1960s by France. Or a veto against a proposal can express a general opposition on the part of one country like nowadays in the case of Great Britain as a revenge for the sanctions on the export of British beef. The potential for consensual solutions increases with the ideological or programmatic proximity of the different groups (Hypothesis VII) or with larger packages, that is with more subject-matter to decide on. Internal or external pressure can accelerate or delay a decision (Hypotheses X and XI). Compromises become more likely when the groups estimate that a matter in the future (e. g. participation in a coalition government, campaigning) is more important than an actual topic (Hypothesis XI). The level of consensus is an equally important aspect of decisions on regulations for elections and voting. A high basic consensus facilitates majority decisions; divergent interests favor an unanimous decision (Hypothesis XII). Deadlocks in the decision process can be broken by delay or adjournment. One way of deferring a matter is its transfer to committees. In such committees experts can produce and handle more information.

Thus one important technique of political actors is to create non-decisions when decisions might be inimical to their interests. Such a technique is secured by the principle of unanimity in the various policy-making bodies of the EU foremost on issues of high politics. The Community gives many examples of this strategy like the numerous plans, proposals, reports produced by special committees for the further development of the Community. Most of them became obsolete shortly after their publication like the Fouchet plans in the 1960s; others became concrete policies like the Werner or the Delors plans. Also social programmes are very unpopular with a substantial number of influential EU-members, and whenever they are put on the agenda they run the risk of being cut back or even cut out.

VI. 2. Partial decisions

A solution can cover the entire subject-matter or just parts of it (partial decision). Broad decisions can be reached through enlargement and differentiation (Hypothesis VIII) or exchange and linkage. Partial decisions can symbolize the lowest common denominator in cases of sharp differences in opinions among member governments. Scharpf (1988) holds that in the EU as well as in federal systems countervailing forces among actors at the various levels of decision-making create a so-called "decision-trap" (Entscheidungsfalle). This implies an inability to move to more progressive visions and a tendency to

stick with conservative solutions. Peters (1994) argues that the opposite could be true. Because of its openness—and I would like to add because of its elite structure—the EU can channel demands from social groups more easily than in the case of national constituencies. “The fragmentation of the institutions and the multiple points of access permit policy entrepreneurs within the EC to have the system consider a wide range of options” (Peters 1994 : 24).

VI. 3. Radical resolutions

A non-binding general statement, that is a non-binding radicalization or ideologization, can also be the answer when highly heterogenous groups struggle to reach binding material decisions (Hypothesis IX). Pragmatic solutions are common when the assembly is forced to reach a binding solution. The particular structure of the EU does not allow radical solutions but rather pragmatic ones (see III. 1. 4.).

VI. 4. Ambiguous decisions

Decision-making processes may also produce a choice of options when there is no need for binding decisions (ambiguous decision). The result will be realistic and pragmatic recommendations (Hypothesis IX) unless this situation leads to empty phrases, irresponsible demands or over-generalizations. Compromises are also ambiguous decisions, since they account for both sides and can, thus, be interpreted in different ways. The diverting interests of EU actors in policy matters can in some instances only be brought together by this form of decision formula. It could be the minimum consensual platform for otherwise diverting interests.

VI. 5. Majority decisions and compromise

An outcome either reflects just the numeric majority or it includes minority-positions. Majority positions are successfully implemented when the majority is not forced to compromise ; minorities have their chance to influence the decision process when the majority party is split or a big party has no absolute majority and needs a small party as its coalition-partner (Hypothesis V).

A fairly large assembly under time pressure favors the majority positions compared to smaller assemblies without time pressure (Hypothesis IV). According to the EU-community law the majority rule must be applied on specified issues, especially on the common market and on not so common fields as foreign and security policies. In reality, however, even in these fields a consensual approach is preferred to majority voting.

VI. 6. Stable and Unstable Decisions

Decisions are either stable in time or they must be revised, rejected or modified. The stability of decisions depends on a great number of factors. As a tendency, decisions are stable when they have been reached without time or power pressure (Hypothesis IV), with a high consensus (Hypothesis VI), on the basis of unanimous decision-making (Hypothesis XIII and XIV), or with respect to the further scope of action (Hypothesis XI). Representativity alone, e. g. with fixed quota, does not suffice, unless there is a high consensual potential, e. g. through ideological or programmatic proximity among the organized members (Hypothesis VII and IV. 3). Those coalition governments with a barely sufficient majority have shown to be relatively stable. In the EU the practice of voting follows a pattern of consensus and is not a "tyranny of the majority". This is caused by the expectation of other more stable decisions in the future.

VI. 7. Conservative or Progressive Decisions

Decisions reached in a group process are either aimed at the preservation of the status quo or at initiating change. Unanimous decision-making favors status quo-oriented decisions (Hypothesis XIV); majority decision-making is more flexible and holds more options for change. Thus countries like Germany, the Benelux countries, Italy, Greece, Portugal and Spain that are willing to deepen or/and widen the EU favor qualified majority voting in the Council in the field of foreign and security policies (as well as in other policy fields like that of the Justice and Home Affairs). Those countries reluctant or even refraining from the integration process like the UK, Denmark or Ireland want to keep unanimity voting. Thus, the preservation of a veto position can prevent necessary changes and stabilize the status quo.

However, in EU assemblies both types of outcomes are possible and the result does, of course, not only depend on the rules of the game. Political will is the decisive factor and where there is a will there is a way, which could result in a change of the rules. In the EU there are numerically more conservative governments like the British and the Danish who want to preserve national competencies as much as possible. Others expect a federal European state and are, therefore, prepared to concede more competencies to a third level organization such as the EU.

VI. 8. Future-oriented Decisions

Last, but not least, solutions of a decision-making process can refer to a future matter or a current topic. Negotiations among coalition partners over a future government participation or electoral campaigns require the will to

compromise (Hypothesis XI). Instead of short term gains the agents may prefer a long term benefit. Gains in the long run may engage short term costs.

Many decisions in EU organisms can be seen in this perspective. It could be that actors agree with a party because he wants the other's consent in future negotiations. It could also be that the vision of a future Europe directs the actions of its members.

VII. CONCLUSIONS

At the beginning of this paper we asked questions about the specific nature of EU–negotiation processes and how they influence the outcome. The emphasize was mainly on two very important aspects of EU policy, namely the representativity of the member countries in the various bodies and the efficiency and effectiveness in producing outcomes. These two aspects are connected to the two additional issues, namely the deepening and the widening of the EU.

Our analysis has shown that there are, on the one hand, general theoretical statements covering the negotiation processes as a whole and, on the other hand, very specific characteristics of each of the EU assemblies.

With regard to more general observations, we mentioned some of the unifying forces which keep diversities, fragmentations and segmentations together. The community spirit, the community institutions, the leadership of the Commissioners, the will to construct Europe and to intensify and widen the political arenas in terms of policy fields and members—all these driving forces have so far influenced negotiations in EU–bodies which, most of the time, have led to consensus and have worked through ups and downs toward further integration.

With regard to the specifics of the negotiation and decision–making processes in the various EU–bodies, some of the differences must be mentioned. Since the assemblies vary in size (i. e. 15 members in the Council or 16 in the Court of Justice), in their modes of representation, in their structure and their voting procedures, etc., we can hardly draw general conclusions that describe and/or explain outcomes. However, as to our initial question about differences between negotiations within the community institutions and the intergovernmental organs of the EU, we can draw some conclusions since they are structured differently. Assemblies which practice the community method show more evolution than intergovernmental assemblies. This may be due to the fact that qualified majority voting allows more dynamics and the process can be geared more effectively by the supranational organisms. Intergovernmental cooperation with unanimity voting has the tendency of preserving the status

quo. Also, economic goods can be negotiated more easily with multiple techniques than issues of high politics with more national values. Whereas the former type of negotiation mainly deals with interest conflicts, the latter deals with value conflicts. Hence, we can explain the different outcomes of negotiations in the community and the intergovernmental bodies with their different structural and procedural conditions. Community institutions have a tendency to produce change, intergovernmental bodies to produce more conservative outcomes. Hence, institutions matter and different institutions matter differently.

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