

Failure and success. Reflections on the history of IGCs, 1951-2001

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The IGC (Intergovernmental Conference) has come to dominate the public face of European Union decision-making - in Dutch now mostly referred to as *Eurotop*. The Commission's otherwise excellent website acknowledges six IGCs in the life of the EU until 2001. However, this is not true. Missing from the list are two conferences sandwiched between the IGCs that founded the European Coal and Steel Community (ECSC) in 1951 and the European Economic Community (EEC) and Euratom in 1955-57. One may also question the Commission's claim that all have succeeded in achieving their objectives. Below I have presented the list of IGCs (until 2000) and their main results:

1951	Treaty of Paris founding the ECSC
1952	Treaty of Paris establishing a European Defence Community (EDC)
1953-54	Rome/Paris Draft Treaty for a European (Political) Community (EPC)
1955-57	Treaty of Rome founding the EEC and Euratom
1985	Luxembourg, the Single European Act (SEA) 'completing' the common market
1990-91	Treaty of Maastricht establishing the European Union, Economic and Monetary Union (EMU)
1997	Treaty of Amsterdam
2000	Treaty of Nice

Some of these IGCs have produced significant changes in the competencies of the Union and changes in the way it has functioned. Others have ended in a mixture of bafflement and disappointment. 'Nice' is a good example of the latter. One may envisage three basic explanatory frameworks, concentrating respectively on: 1) the nature of the issues, 2) the nature of the conflicts, and 3) the nature of the negotiations. The object of this article is to explore these possibilities using the history of IGCs. I will argue that

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one may question the effectiveness of the IGC method to ensure institutional progress within the European Union, as has been recently demonstrated in Rome.

Success or failure?

There can be no doubts about the success of the IGC leading to the first Treaty of Paris whereby the original Six (France, Germany, Italy and the Benelux countries) established the ECSC. The ECSC opened national markets for coal and steel under uniform conditions and provided (supranational) procedures for market regulation in times of shortages or gluts. It also established the basic institutional architecture for all subsequent communities, although the balance between the institutions would vary within each.¹

But the next two IGCs were marked by failure. The second IGC succeeded in producing the EDC treaty, which was indeed signed by all six parties, envisaging the creation of a European army. However, despite its specific (discriminatory) provisions limiting the freedom of German rearmament, it failed to satisfy the French, whose whole idea it had been in the first place.

Successive attempts to renegotiate the treaty by strengthening the governmental grip in order to satisfy the Right in the French National Assembly only served to alienate the Centre-Left, and in the autumn of 1954 the government finally abandoned its attempts to secure the treaty's ratification.² The collapse of the EDC treaty also buried the next IGC, which had been organized in anticipation of the EDC's ratification - in order to provide a political framework for the two existing treaties (ECSC and EDC) and for any new communities that might be negotiated in the future. Its brief was soon widened to prepare provisions for future economic integration, and although the foundations of the EPC were destroyed by the EDC's collapse, it was the economic side of the

¹ J. Gillingham, *Coal, steel and the rebirth of Europe, 1945-1955* (Cambridge 1991); K. Schwabe ed., *Die Anfänge des Schuman-Plans 1950/51. The Beginnings of the Schuman Plan* (Baden-Baden etc. 1988).

² E. Fursdon, *The European Defence Community: A history* (London 1979); R. G. Förster e.a. ed., *Anfänge westdeutscher Sicherheitspolitik 1945-1956: Teil 1: Von der Kapitulation bis zum Pleven-Plan* (Munich and Oldenburg 1982).

negotiations that were to leave their legacy to the future.³ The possibility of negotiating a common market was left open to the next IGC, launched by the Six at Messina in June 1955. The French government was initially overtly sceptical and attached much more importance to the possibility of forming an atomic energy community. The Rome treaties created both, in the form of the EEC and Euratom. However, one can question whether the simple fact of a treaty should be seen as being synonymous with success. The IGC did produce a successful formula for a common market with detailed provisions governing the creation of a customs union, broader commitments and powers for the Commission in the areas of agriculture and total responsibility for formulating and administering rules of competition.⁴ The situation, however, was radically different for atomic energy where the initial intention was inter alia to provide for the joint construction and operation of a (very expensive) plant for uranium enrichment and reprocessing. This aspiration was ultimately defeated by the decision of the Six to accept an American offer of cheap fissionable material under the 'Atoms for Peace' programme. As a result, the French proceeded with their own nuclear program, and the Euratom treaty started life as a shell without a core.⁵

A period of almost thirty years elapsed between the launch of the IGC in Messina and the next initiative along these lines. The next IGC culminated in the agreement on the Single European Act (1985), which provided for a vast legislative program aimed at the removal of non-tariff barriers to intra-community trade in both goods and services. This was a major achievement, but the IGC also left several issues either the subject of timid compromise or entirely unresolved. For example, cooperation in exchange-rate management was kept firmly outside the EEC treaty framework and only a small advance was made into the system of unanimous voting within the Council of Ministers and in expanding the powers of the European Parliament. In all three areas more ambitious reforms were rebuffed. Whether this restriction of focus represented

³ R. T. Griffiths, *Europe's first constitution. The European Political Community 1952-1954* (London 2000); D. Preda, *Sulla soglia dell'unione: la vicenda della Comunità Politica Europea (1952-1954)* (Milan 1993).

⁴ H. J. Küsters, *Die Gründung der europäischen Wirtschaftsgemeinschaft* (Baden-Baden 1982); E. Serra ed., *Il rilancio dell'Europa e i Trattati di Roma. La relance Européenne et les Traités de Rome. The Relaunching of Europe and the Treaties of Rome* (Brussels etc. 1989).

⁵ P. Weilemann, *Die Anfänge der europäischen Atomgemeinschaft: zur Gründungsgeschichte von Euratom 1955-1957* (Baden-Baden 1983).

success or failure presumably depends of one's assessment of the nature of the problems facing Europe and the process of European integration.⁶ Monetary reform returned to the agenda with a vengeance when it became the centrepiece of a new IGC that was to culminate in the Treaty of Maastricht. The treaty agreed to the goal of economic and monetary union, and procedures to effectuate this, but at the same time it provided opt-out clauses for Britain and Denmark. A social paragraph, again accompanied by opt-out clauses, did not even make it into the body of the treaty but was assigned instead to a separate protocol. There were also further extensions in the areas of majority voting, the powers of the European parliament and the role of foreign and security policy, albeit that the latter remained firmly intergovernmental in character. In retrospect, with a new common coinage destined to enter circulation in January 2002, it is easy to characterise the IGC as a success. Economic and monetary union challenges one of the core essences of state sovereignty. At the time of its signature, however, observers took a very different view. The fact that the Danes required two referenda to obtain the majority that would allow ratification, that the French only narrowly approved it, that the British prime-minister needed to survive a vote of confidence in parliament all pointed to a community that had overreached itself. There were many who stressed the need for a new IGC to 'correct' the shortcomings of Maastricht.⁷

The IGC leading to the Treaty of Amsterdam was considerably longer on rhetoric than it was on results. This may well have been the result of the calls for more openness after the SEA, and especially after the Maastricht ratification crisis. The agenda was possibly overcrowded, but this increased openness also meant that trade-offs and side-payments became more difficult to establish.⁸ Moreover, the actors in the IGC-process had become aware of the necessity to take ratification constraints into account.⁹ Constitutional and institutional issues played a predominant role in the 1996 IGC. The 'threat' of enlargement was used as a means to induce compromise. Some decisions were taken such as on the concept of

⁶ J. de Ruyt, *L'acte unique européen: commentaire* (Brussels 1987); A. Moravcsik, *The choice for Europe, social purpose and state power from Messina to Maastricht* (z.p. 1998).

⁷ R. Corbett, *The Treaty of Maastricht* (Harlow 1993); Moravcsik, *The choice for Europe*.

⁸ U. Sverdrup, *Precedents and present events in the European Union. An institutional perspective on treaty reform*. Arena working paper 98-21 (1998).

⁹ S. Hug and Th. König, *In view of ratification. Governmental preferences and domestic constraints at the Amsterdam Intergovernmental Conference*. Paper prepared for presentation at the annual meeting of the American Political Science Association, Atlanta, September 2-5, 1999.

flexibility, the Schengen treaty and the strengthening of the first pillar at the expense of the third, but nevertheless was this IGC marked by non-decisions.¹⁰

The issues

It is possible that the success or failure of IGCs may lie in the nature of the issues being discussed or their number or complexity. Among the various approaches to this question, one of the oldest distinctions made by political scientists is between 'high' and 'low' politics. The implication drawn from this distinction is that agreement is simpler in areas of trade and economics (low politics) than in traditional areas of security and foreign policy (high politics). Another consideration that can be used in assessing the IGCs is whether negotiations are based on resolving single issues or on a complex of issues, the former situation allowing an IGC a clearer focus but depriving it of the possibility of trade-offs between issues.

The distinction between high and low politics was originally employed by Haas to explain why spillover from one level of policy-making did not influence the other, and by Keohane and Nye to distinguish policy-making in monetary policy from traditional security policy analysis.¹¹ In practice it is difficult to separate high and low politics. The first IGC dealt with seemingly low political issues as coal and steel, but the strategic question of maintaining the output of heavy industry in the event of much of the continent being overrun in a future war was sufficient to keep Britain from joining.

High politics formed the essence of the second IGC, with some overlap into the third. They took place at a time when NATO existed on little more than paper and when early German rearmament seemed essential for a credible strategy for forward defence in Western Europe. A European army (without an independent German high command and with restrictions on the German armaments industry) was only agreed because of German compliance, and the acquiescence of the then French government was bought only because of various clauses designed to allow the country to

¹⁰ Th. Christiansen and Knud Erik Jørgensen, 'The Amsterdam process: a structurationist perspective on EU treaty reform', *European integration online Papers* 3 (1999) 1.

¹¹ E. B. Haas, *The uniting of Europe: political, social and economic forces, 1950-1957* (Stanford 1968); R. Keohane and J.S. Nye, *Power and interdependence: world politics in transition* (Boston 1977).

pursue its colonial policy. The third IGC was required because the EDC treaty contained only temporary (and ultimately unsatisfactory) clauses over who was to control the foreign policy of the new community. That it did not stick to that restricted agenda, but spilled over into wider constitutional and economic questions, was a contributory factor to the collapse of the whole enterprise.

High politics has been creeping back onto the agenda, but in a way that has still shrunk back from touching the core of political sovereignty. Even such a fundamental step as Economic and Monetary Union has led only to a technocratic change in monetary management, the creation of a new central bank, but also in the abdication of any direct political control. Commentators are sceptical over whether these arrangements will prove either effective or sufficient. Foreign and security policy has also been nudging its way to the fore, but again in a cautious way. Discussions have been kept intergovernmental and indeed the Single European Act was only 'single' in stapling the separate pillars, with their separate decision-making structures, into a single document. One explanation for this cautious approach is that high politics has generally been kept away from the democratic process and that the EU lacks the legitimacy to assume such executive tasks of government.¹² On the security front, too, progress is cautious and possibly insufficient. The Rapid Reaction Force of 60,000 may look impressive in the light of what has preceded it, but it needs to be seen in the context of a military might of close on two million currently available to EU member states. It is also likely to be inadequate if Europe is ever confronted alone simultaneously with two crises of Bosnian dimensions.¹³

Single-issue negotiations within the EU's history are rare. As we have already observed, the first IGC dealing with coal and steel prompted the UK government to consider security issues. However, with coal, iron and steel making up over half of the bulk of rail transport, it impinged on transport policy and - at a time when differential freight rates was a favoured measure in promoting regional development - on regional policy as well. The second IGC dealt not only with the formation of a European army but, through provisions for a common procurement system, it impinged also on arms production and joint Research and Development projects. The third IGC not only negotiated a framework for the existing

¹² E. Holm, *High politics and European integration. From EMU to CFSP*. Discussion paper no. 2, Hellenic Observatory (London 2000).

¹³ Griffiths, *Europe's first constitution*.

communities, but made provision for extending the range of competencies (much to the horror of most of the participating governments) starting with the economic sphere. The classic case of 'linkage' however is afforded by the fourth IGC that addressed jointly the questions of atomic energy and the common market. At the start of the negotiations, the French government was thoroughly sceptical about a common market and it is probably only because of the prospect of an atomic energy community that they were at the negotiating table at all. Even when a more favourable government came to power in January 1956, the fact that the two issues were kept linked, inter alia on the insistence of the Germans, helped maintain momentum on the common market.

The opportunities afforded by issue-linkage are readily acknowledged by both neo-realists and neo-liberals, especially within the context of international organisations. The importance each side attaches to this phenomenon varies only with their assessment of states' ambitions within the international setting.¹⁴ By dealing simultaneously with various issues, the parties increase the chances of achieving success by allowing the trade-offs that result in a satisfactory deal for all concerned. The problem with linkages is that the only criterion for measuring their success is their success itself. Had the respective IGCs failed, the interpretation of the usefulness of the links would have altered. The IGC leading to the Maastricht treaty, which, in my view, produced the greatest step forward in the EU's history since the foundation of the EEC, was condemned at the time for delivering results that were too ambitious, too cluttered and too opaque. For these reasons, the IGC risked complete failure by jeopardising the ratification process. The IGC leading to the Amsterdam treaty initiated steps that, by formalising procedures that would allow states to opt-out of specific policies, specifically diluted the necessity for achieving unanimous agreement on every point. If this becomes the norm, opt-outs will become the substitute for trade-offs, and the opaqueness of the package-deal will be replaced by the fragmentation of overlapping issue areas with different memberships and different rules. The IGC leading to the Nice treaty avoided taking this path but once more an overfull agenda was seen as leading to disappointing results.

Whilst this IGC may have exasperated those commentators concerned with the lack of democracy and transparency in the entire IGC

¹⁴ J. M. Grieco, *Cooperation among nations. Europe, America and non-tariff barriers to trade* (Cornell 1990).

process, some political scientists seemingly turned necessity into a virtue, using the 'garbage can' model of decision-making. They argue that agreement is actually facilitated by a lack of coherent framework of problem preferences, by an unclear decision-making structure and by participants who are not uniformly committed to all issues. They also contend that the more imperfect the information is among policy makers, the more important the role of a policy entrepreneur will be.¹⁵ We will return to this question later in this article .

The conflict

It is always unlikely that governments arrive at an IGC with similar standpoints on all issues, or even with an agreement over which issues should be regarded as high priorities. Thus, by itself, the fact that disagreements occur is unimportant. What we need to do, therefore, is to qualify the role that such disagreements might play in determining the success or failure of the outcomes. A first distinction that needs to be drawn is the nature of the agreement itself. Does it touch a fundamental national interest, whatever that may be, or does it reflect the policy preference, for whatever reason, of the government in power? Then we have to examine a second distinction. Is the outcome the result of a straight bargaining process to secure the maximum national advantage for each state or does it reflect a more consensual process where all participants strive towards the ultimate goal of securing a ratifiable agreement?

The idea of national interest as a driving force for integration dates back to mid-1960s when Stanley Hoffmann denied that integration was weakening the nation state. He argued that some issues were simply too large to be resolved within national contexts and that, by agreeing to surrender some sovereignty, states emerged stronger in these areas, and more capable of realising their aims.¹⁶ This concept was revived and placed it in the historical context by Alan Milward. The argument now went that integration represented such a challenge to state sovereignty that states would only agree to surrender some if the issue were so important as to

¹⁵ M. D. Cohen, J.G. March and J.P. Olsen, 'A garbage can model of organizational choice', *Administrative Science Quarterly* 17-1 (1971) 1-25; J. W. Kingdon, *Agendas, alternatives and public policy* (Boston 1984).

¹⁶ S. Hoffmann, 'Obstinate or obsolete? The fate of the nation-state and the case of Western Europe', *Daedalus* 95-3 (1966) 862-916.

threaten their very survival.¹⁷ These positions are close to the realist position but other nuances are possible. As a leading member of the 'liberal intergovernmentalist' school, Moravcsik refers to state preferences, which may reflect domestic pressures, rather than to national interest, which diminishes the somewhat deterministic nature of the latter. He then proceeds to note that these interests appear to be primarily economically motivated and remain remarkably stable over time.¹⁸ These concepts are difficult to test, certainly in the space available. However, one obvious check is whether what appears at one moment to represent a national imperative is the subject of short-term change. Take, for example, the fourth IGC that created the EEC. At the start of the negotiations it appeared absolutely impossible that the then French government would ever countenance the idea of economic integration, and for this reason Monnet had been sceptical about including it in the Benelux memorandum that 'relaunched' Europe after the failure of the EDC. However, in January 1956 a more pro-European coalition took office and France's hostility subsided. Although French negotiators still drove a hard bargain, they signed and ratified the EEC treaty and, under a Gaullist government, implemented it without employing any of the escape clauses included in the treaty. There was another partner in the early negotiations, whose presence is often forgotten, and that was the United Kingdom. After a few months it withdrew from the IGC, the government having determined that for various reasons it could not join a common market. Five years later, with the same Conservative government in power, the UK was taking the decision to apply for EEC membership.

For British audiences, the IGC leading to the Maastricht treaty will be familiar for the Conservative government's determined opposition to the 'social paragraph'. Time and again government spokesmen explained that its implementation would cripple the competitiveness of British industry and, for this reason, it could not be accepted. The social paragraph was not included in the treaty but in a separate protocol and the government won the right to opt-out of its adoption and implementation. This would appear a classic case of national interest, were it not for the fact that one of the first

¹⁷ A. S. Milward, *The European rescue of the nation state* (London 1992); A. S. Milward e.a., *The frontier of national sovereignty. History and theory 1945-1992* (London and New York 1993).

¹⁸ A. Moravcsik, 'Negotiating the Single European Act: national interests and conventional statecraft in the European Community', *International Organization* 45-1 (1991); A. Moravcsik, 'Preferences and power in the European Community: a liberal intergovernmentalist approach', *Journal of common market studies* 31-4 (1993).

acts of a new Labour government on coming to power was to announce the country's acceptance of the full provisions of the social paragraph. The announcement caused no uproar among the business elite. On the contrary, the public reaction was surprisingly mute.

If governments' negotiating positions are not always immutable, we might also question whether, when they are confronted with each other in an IGC, the result is an implacable struggle to preserve entrenched national interests.¹⁹ Moravcsik in particular emphasises the key role played by governments in interstate relations and particularly the power of large states to exercise a de facto veto over important issues. The outcome, therefore, is closest to the lowest common denominator of large states interests.²⁰ Therefore, while all participants in intergovernmental negotiations are intent on maximising their own positions, the strongest parties will emerge as the winners, and the (often messy) end-result will be the coincidence of the outcomes of the compromises needed to secure the acceptance of all parties. Of course, all is lost if the agreement is not accepted.

IGCs are unique in that their agreements require ratification (by achieving a majority either in national parliaments or in referenda) by all parties. This suggests that all participants have to be mindful of the need that each has to mobilise domestic support for the outcome. In this light, the strongest state is the one with the most solid command of a domestic majority; it could accept various outcomes and still secure ratification. The weakest state is one that has to walk a tightrope to secure a successful outcome, and it may be helped by its partners by such devices as the granting of opt-out provisions and by the inclusion of side-payments (extraneous issues upon which extra concessions may be granted) that will help it secure a parliamentary or public majority. In this scenario the weakest state will emerge as the 'winner' and the (still messy) end result will reflect the opt-outs, concessions and side-payments needed to help it secure ratification.²¹

Let us return to two of the examples we have considered above. During the IGC leading to the EEC, the French government acquired a whole slate of concessions from the other parties. Among the specifically French demands that eventually found their way into the treaty were special

¹⁹ Milward, *The European rescue*.

²⁰ Moravcsik, 'Negotiating the Single European Act', 25.

²¹ R. D. Putnam, 'Diplomacy and domestic politics: the logic of two-level games', *International Organization* 42-3 (1988); R. D. Putnam, *Double-edged diplomacy: international bargaining and domestic politics* (Berkeley 1993).

provisions for the colonies, clauses to allow one party to postpone adopting treaty provisions (a kind of delayed opt-in) and clauses on ‘social harmonisation’. The latter bore all the trammels of a side-payment since all it boiled down to was a standardisation of the working hours after which overtime would be paid, the phased introduction of equal pay for women and the standardisation of the number of paid holidays. Granted that the French balance-of-payments was not the strongest, but these measures would have made little difference except in widening the base of parliamentary support. Throughout the IGC the negotiators were continuously aware that the French government’s parliamentary support was fragile and that new elections would probably produce a parliament less favourable than the current one. The fate of the treaty of Rome, with its far ranging economic provisions, hung on that (one-shot) parliamentary vote.

During the IGC leading to the Maastricht treaty it would have been equally impossible not to have been aware of the weakness of the British Conservative government. John Major was severely restricted by the weak support he had in parliament. He used this restriction to his advantage however, by arguing that he could not give in to certain points as it would be unacceptable to parliament. In this situation, rather than face a stalemate, the other negotiating partners allowed the UK to remain behind whilst they reached an agreement among themselves.²² Once again, the shape of the agreement, and the concessions awarded, reflected weakness rather than strength. And the opaqueness of the result reflected the compromises required to ensure that all partners ratify the result (though only just).

The negotiations

The series of IGCs within the EU have two distinct institutional qualities. In the first place they are all designed to produce new international agreements and therefore play themselves out in a framework where national governments (or, more accurately, the executive elites of those governments) are required to interact in arriving at an outcome. Moravcsik once argued that elites were growing to like this kind of arrangement since it offered them scope for national (and domestic) agenda-setting and

²² Moravcsik, ‘Preferences and power in the European Community’, 504.

enhanced their own position within national decision-making structures.²³ Secondly, they take place within an existing international institution. Most political scientists, even realists, concede that international institutions, with their distinct rules and procedures, can and do influence state behaviour and the outcomes of inter-state bargaining. Among international organisations, however, the European Union is more intrusive than most. The various treaties have given the European Commission, and to a lesser extent the European Parliament, a privileged position in agenda setting, allowing them to play the role of policy entrepreneurs. Moreover, the central position of the Commission in policy preparation and implementation, combined with the strong role assigned to the national permanent representatives, allows it extra scope in mediation between states. Finally, the Commission has acquired a formidable array of European-level lobby groups and think-tanks that allow it to mobilise different strata of interest groups behind its ideas.²⁴

The first four IGCs that took place in the 1950s did not benefit from the services of an international secretariat, far less from the guidance of a supranational Commission. The first two, leading to the ECSC and EDC respectively, were effectively directed from French *Commissariat du Plan*, under the leadership of Jean Monnet. Monnet himself took charge of the ECSC negotiations and dispatched his associate Etienne Hirsch to take care of the EDC. The third IGC, leading to the Political Community, took a different route. In this case the parliament of the ECSC, albeit in an amended form, was charged with preparing the draft treaty upon which the subsequent IGC would deliberate. Since, however, the federal complexion of the work it produced was in advance of what most governments were prepared to accept, it was thereafter excluded from much of the IGC deliberation. The IGC leading to the EEC and Euratom employed neither the services of the High Authority of the ECSC nor the advice of its parliament, although leading members of the ECSC staff, notably Hans von der Groeben and Pierre Uri, did play an important role in a personal capacity. By and large, therefore, the first four IGCs operated each within its own institutional construction, without any of the supposed benefits of an existing international framework.

The Commission and especially its president, Jacques Delors, were extremely visible in the IGCs leading to the SEA and to the Treaty of

²³ A. Moravcsik, *Why the European Community strengthens the state: domestic politics and international cooperation*. Paper presented at the Conference of Europeanists, Chicago, April 1994.

²⁴ Moravcsik, *The choice for Europe*, 56.

Maastricht, especially the EMU. For both treaties, the Commission wrote the report that became the basis for negotiations and, in the case of the SEA, played an important role as participant in the Committee on Institutional Affairs (the Dooge Committee). Obviously these drafts were written with national preferences in mind and national governments did have the last say, but the procedures conformed to the rights of initiative embedded in the structure of the EU. Writing in 1991 Moravcsik analysed the SEA solely in terms of an intergovernmental (lowest common denominator) bargain.²⁵ In 1999, however, he was prepared to concede that the SEA was the only treaty where supranational institutions helped to improve effectiveness.²⁶ This brought him into line with the majority opinion. Dinan saw the SEA as an example of the European Commission in the role of policy entrepreneur²⁷ and Sandholtz and Zysman emphasize the importance of the Commission's leadership as a necessary precondition for integration: 'The Commission, aided by business, was able to mobilize a coalition of governmental elites that favoured the overall objective of market unification.'²⁸

There is little doubt that these IGCs were driven by the Commission, but whilst this may have facilitated the achievement of agreement among member states and may have marked considerable steps forward of the road towards an 'ever deeper union', there were already signs that all was not well. The ratification crisis surrounding the Treaty of Maastricht and the currency crisis that soon enveloped the Exchange Rate Mechanism shattered the élan surrounding the Commission. Criticism surrounding Delors autocratic style began to surface and the need was expressed to widen the scope of consultation in the preparatory phase of the next IGC.²⁹ This led to procedures whereby no less than four 'interinstitutional conferences' were called between the European Parliament and the Commission and a Reflection Group, consisting of representatives of the member states and the Commission and chaired by Carlos Westendorp, was entrusted with drafting the report that served as the basis for further negotiation.

²⁵ Moravcsik, 'Negotiating the Single European Act'.

²⁶ Moravcsik, *The choice for Europe*, 8.

²⁷ D. Dinan, 'The commission and the reform process' in: G. Edwards and A. Pijpers ed., *The politics of European treaty reform, The 1996 Intergovernmental Conference* (z.p. 1997) 189.

²⁸ W. Sandholtz and J. Zysman, 'Recasting the European bargain', *World politics* 41-1 (1989) 95-128.

²⁹ Dinan, 'The commission and the reform process', 191.

With the 1996 IGC both the spread of information and the network of participation were widened. Moreover, the introduction of qualified majority voting increased the nature of EU diplomacy and contributed to a greater fluidity in negotiating alliances that shifted from issue to issue. At the same time, although the member states, nervous in the aftermath of Maastricht, excised the more controversial issues from the agenda³⁰, the prospect of EU enlargement served as a complicating agent in the subsequent negotiations.³¹ According to the 'garbage can' model, in this situation one would expect the role of the Commission as policy entrepreneur, and the only agent capable of overseeing everything, to have been enhanced. However, Moravcsik and Nicolaidis come to the opposite conclusion. They observe that since the last two IGCs were announced in the preceding treaty, governments knew about them years in advance and were in a good information position. Pollack reaches the conclusion that in this information-rich environment the opportunities for entrepreneurial agenda setting by supranational organisations were correspondingly weak.

Final reflections

The disappointing results of the IGC leading to the Treaty of Amsterdam and the IGC in Nice must call into question the entire IGC method of institutional progress within the European Union. The Treaty of Nice may have achieved the institutional reform necessary to allow the EU to expand its membership and therefore to perpetuate its (questionable) decision-making effectiveness. However, even at the time, it was acknowledged to be a stop-gap measure until a new 'Convention' had been agreed. The procedure for the Convention differed in one important respect from its predecessors by trying to 'tie-in' potential decision-makers. The Convention included therefore not only members of the European parliament and the Commission, but also representatives from national parliaments and governments; even representatives from future member-states. If they were involved in the work, they might be less cavalier in their final judgement. However, the Convention maintained a large role for the steering power of chair, held by Valéry Giscard d'Estaing and this may ultimately have been its undoing. The IGC to consider its fate in December 2003 took less than

³⁰ Hug and König, *In view of ratification*.

³¹ Sverdrup, *Precedents and present events in the European Union*.

one weekend to fall apart. The ostensible reason was Spanish and Polish displeasure at changes in the weighing of votes and representation in the European parliament. But behind that lurked the difficulty of the objection of the ‘small states’ to the change in the number of Commissioners, and one step behind that lay several British ‘red lines’ defining the policy areas that would remain in national hands.

Although Nice has kept the decision-making machinery functioning, it has failed to address the larger issue of political legitimacy, in which both the functioning of the Commission and the Parliament, and the character of the IGC method are perceived as the core of the problem – bureaucracy in the service of an executive elite. No amount of tinkering with the rules can resolve the public’s increasing alienation from the European objectives that these institutional arrangements are supposed to serve. Indeed there seems to be little recognition among the elites that their institutional arrangements might be part of the problem rather than part of the solution.

At the time of writing, it appears that a compromise on the Constitution may yet emerge, but whether it will survive the test of voters’ approval in the various referenda, already promised or still to emerge, remains to be seen. But the process will not stop there. As more members join, or new issues emerge or new weaknesses become apparent in the area of European governance, there will be new calls for reform. The irony is that, in the absence of any agreed alternative, we will probably have to return to the mechanism of yet another IGC to respond to these demands, even though it has demonstrated itself to be a sub-optimal way of making progress. The philosopher George Santayana once remarked that ‘those who cannot remember the past are condemned to repeat it’, but the European Union seems condemned to this route in full recognition of its limitations. In this case one is rather forced to agree with Hegel: ‘what experience and history teach is this – that nations and governments have never learned anything from history, or acted upon any of the lessons that might be drawn from it’.