

# **Institutional Reform and Codecision in the European Union**

**Christophe Crombez\***

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## **Abstract**

This paper studies the Treaty of Amsterdam's reform of the codecision procedure in the European Union. The paper presents spatial models of the procedure, and examines whether the Treaty significantly alters it. The theory analyzes the implications of the Treaty for the equilibrium EU policies and the institutions' powers. It characterizes sets of policies the Commission can successfully propose under the old procedure, and sets of policies the Council and the Parliament can successfully propose as joint texts under the new procedure. The paper concludes that the new procedure does not lead to a further increase in the Parliament's powers, as intended by the drafters of the Treaty. Rather it finds that the Treaty eliminates the Commission's power under codecision and may increase indecision.

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\* Associate Professor of Political Economy, University of Leuven, Naamsestraat 69, 3000 Leuven, Belgium. Phone: +32-16-32 69 05. Fax: +32-16-32 67 32. E-Mail: [christophe.crombez@econ.kuleuven.ac.be](mailto:christophe.crombez@econ.kuleuven.ac.be).

# 1 Introduction

In March 1996 the European Union (EU) convened an intergovernmental conference to amend the Treaty of Maastricht (1992), thus embarking on its third major round of treaty revisions in less than fifteen years. The conference was to mark the next stage towards the creation of “an ever closer union,” and was to reform EU institutions both to prepare for eastward enlargement and to reduce the democratic deficit. The process eventually led to the signing of the Treaty of Amsterdam in October 1997. Like its two predecessors, the Single European Act (1986) and the Treaty of Maastricht, the Treaty of Amsterdam gives the EU a bigger say in specific policy areas and reforms its institutions.<sup>1</sup>

The Single European Act and the Treaty of Maastricht are generally considered to be milestones on the road towards European unification. The former launched the internal market program, while the latter led to monetary union. The Single European Act also reduced the use of unanimity rule in the Council and established the cooperation procedure, which increased the Parliament’s involvement in the legislative process.<sup>2</sup> The Treaty of Maastricht further enhanced the Parliament’s role by introducing the codecision procedure.

A large number of institutional reforms were on the agenda in Amsterdam: (1) an adjustment of the countries’ vote weights in the Council; (2) a limit on the number of Commissioners; (3) an extension of qualified majority voting in the Council; (4) an increase in the Parliament’s powers; and (5) a simplification of EU legislative procedures. The vote weights in the Council were to be adjusted to become more proportional to the countries’ population shares. This was especially important in view of EU enlargement, which threatened to dilute the vote shares of the large countries as more small

countries join the union. A limit on the number of Commissioners was intended to keep the Commission's size manageable. Qualified majority rule was to replace unanimity in order to reduce the prospects of legislative gridlock. An increase in the Parliament's powers would improve the EU's democratic credentials.<sup>3</sup> Likewise, simpler legislative procedures would enhance transparency.

In the end, however, the Treaty of Amsterdam fell far short of these objectives. At best, it can be described as "a reasonable step" in the unification process, to use the words of the French President Jacques Chirac. It does not represent a major breakthrough in any substantive area. The ambitious plans for closer cooperation and institutional reform were set aside to avoid another painful ratification process and to prevent a delay in eastward enlargement and monetary union. The Treaty does extend the EU's powers in some areas, such as foreign policy, justice and home affairs, and employment and social policy, but it makes no major alterations to the policy-making environment in Europe.

At the institutional level, the Treaty is also a mixed success. It does not adjust the vote weights in the Council, as opposition from small countries carried the day on this point. Likewise, it does not reduce the number of Commissioners, because the small countries were simply not prepared to give up their Commissioners. The Treaty does extend qualified majority voting in the Council, however, thus reducing the prospects of gridlock. It also increases the Parliament's powers by providing for a wider application of the codecision procedure. Furthermore, it simplifies the codecision procedure somewhat as well. This final measure was designed to address the so-called democratic deficit, the imbalance of EU powers in favor of the unelected. It seems fair to conclude that it did improve transparency, but whether this constitutional innovation succeeded in increasing the Parliament's powers is a much harder question to assess. I will address this question in this paper.

The paper focuses on the changes to the codecision procedure and what precisely they have done to EU decision-making. The codecision procedure was introduced by the Treaty of Maastricht, and was intended to give the Parliament a more important role in the EU legislative process. It provided for negotiations in a Conciliation Committee between the Parliament and the Council in case they approved different versions of a proposal. Crombez (1997a) concluded that the Parliament became a legislator equal in stature to the Council under codecision, in other words that Maastricht's drafters succeeded in their efforts to expand the powers of the elected leg of the EU. The Parliament (European Parliament 1992) claimed, however, that the procedure failed to provide for real codecision "since the Council [was] allowed to act unilaterally in the absence of an agreement" with the Parliament.

The Parliament's conclusions were echoed in most of the literature. Curtin (1993) found that "the effective balance of power [was] indisputably weighed towards the Council." Garrett (1996), Garrett and Tsebelis (1996) and Tsebelis (1997) concluded that the codecision procedure stripped the Parliament of the conditional agenda setting powers it enjoyed under the cooperation procedure. Steunenberg (1994) claimed that the codecision procedure did not really increase the Parliament's powers. These authors reached their conclusions by focusing on the last steps of the codecision procedure. Under codecision the Council can revert to the original Commission proposal at the end of the procedure, if it fails to reach an agreement with the Parliament in the Conciliation Committee. The authors considered this as a powerful tool in the hands of the Council. They overlooked, however, that the Parliament also needs to approve the original Commission proposal, and that the Parliament and the Council together acquire agenda-setting powers in the Conciliation Committee.

In answer to the Parliament's criticism the Amsterdam reform of codecision eliminates the last steps of the procedure and renders it somewhat more transparent. This does not imply, however, that the balance of power has tilted in favor of the Parliament. In this paper I show that the recent reform may have counterintuitive and perverse effects. Rather than increasing the Parliament's power, the new procedure renders the Commission irrelevant, threatens to increase indecision (the EU's inability to act), and may actually reduce the Parliament's ability to obtain a policy that is close to its ideal policy (what I will call its "power").<sup>4</sup>

The heart of this paper consists of spatial models of codecision in the EU.<sup>5</sup> Alternative EU policies are represented by points in a policy space and policy makers are assumed to have preferences over these points. The countries, Members of the European Parliament (MEPs) and Commissioners are all treated as having complete and perfect information. The models yield equilibrium policies as functions of the countries', MEPs' and Commissioners' preferences, and the location of the status quo. For purposes of comparison, I present unidimensional and multidimensional models of the old and new codecision procedures, i.e., the procedure that was used before the Treaty of Amsterdam went into effect on May 1, 1999, and the procedure that is being used today.<sup>6</sup>

Steunenberg (1998) also analyzes the codecision procedure and its reform. He focuses on the last steps of the procedure and assumes that the Parliament has the sole power to make proposals in the Conciliation Committee. He estimates expected distances between EU policies and ideal policies, and finds that one can expect EU policies to be closer to the Parliament's ideal policy than to the Commission or any country's ideal policy. Steunenberg also expects EU policy to move even closer to the Parliament's ideal policy under the new codecision procedure. These conclusions, however, depend critically on the assumption that the Parliament makes the proposals in the

Conciliation Committee. I will show below that once this key assumption is removed, the Commission stands to lose the most and the Parliament may actually lose power as well.

In the next section I introduce the models. The third section studies the old codecision procedure. It characterizes equilibrium EU policies and sets of successful proposals under the old codecision procedure, i.e., sets of policies the Commission can successfully propose. In the fourth section I analyze the new codecision procedure. I characterize equilibrium EU policies and sets of successful joint texts, i.e., sets of policies the Council and Parliament Presidents can successfully propose. The fifth section presents the conclusions.

I find that, if the EU is deciding on a single issue under the old codecision procedure, the Commission successfully proposes the policy it prefers most among the policies that satisfy the following two conditions: (1) the Parliament and a qualified majority in the Council prefer it to the status quo; and, (2) no policy is preferred to it by the Parliament and a qualified majority in the Council. Furthermore, I show that the Parliament becomes a genuine co-legislator with the Council, and that the Commission has substantial agenda-setting powers under the old codecision procedure.

By contrast, I conclude that the Commission's role is irrelevant under the new codecision procedure. Under that procedure the Parliament and the Council, rather than the Commission, choose the EU policy by approving a joint text in the Conciliation Committee. The Commission plays no formal role in the Committee, however, and its original proposal does not serve as the reversion policy. I also conclude that the changes to the codecision procedure may weaken the Parliament's power. Furthermore, I show that the new codecision procedure threatens to increase indecision in the EU. For these reasons, it is at best premature to congratulate the drafters of the Treaty

of Amsterdam. Indeed, in time, their efforts may be added to the catalogue of examples of the “law of unintended consequences.”

### 3 The Models

I present spatial models of EU policy making under the codecision procedure. Alternative policies are represented by points in an  $n$ -dimensional policy space. Each dimension corresponds to a specific policy issue, such as the allowable noncocoa fat level in chocolate or the length of daylight saving time. Policy making can then be thought of as choosing a point in the policy space. I assume that countries have Euclidean preferences over the EU policy  $p(p^1, \dots, p^n)$ . That is, each country  $k$  has an ideal policy  $\hat{p}_k(\hat{p}_k^1, \dots, \hat{p}_k^n)$  and prefers policies that are closer to, rather than farther away from, its ideal policy. The MEPs and Commissioners are also assumed to have Euclidean preferences over EU policies.

I study the old and new codecision procedures. I present unidimensional as well as multidimensional models of both procedures. The unidimensional models study policy making on a single policy issue. As the EU uses strict germaneness rules, proposals typically concern a specific issue, and only related amendments are considered. The unidimensional models can be used to analyze policy making in such instances. One could argue, however, that even in the presence of strict germaneness rules policy makers naturally consider multiple issues during the legislative process. The multidimensional models apply to situations in which policy makers do indeed have multiple issues in mind.<sup>7</sup>

The unidimensional models are simplified versions of the multidimensional models. In particular, the Parliament and the Commission are represented as unitary actors in the unidimensional models. When deciding on a single

policy issue, the median MEP and all MEPs on her left (right) prefer the median MEP's ideal policy to any policy right (left) of it. Under majority rule the median MEP's ideal policy thus defeats any other policy in a pairwise comparison. In general the policy that is closer to the median MEP's ideal policy wins pairwise comparisons. Since the Parliament uses majority rule and has no restrictions on amendments, it acts as a unitary actor with ideal policy equal to the median MEP's ideal policy.<sup>8</sup> A similar argument holds for the Commission. The analysis of policy making on a single issue can thus be simplified by focusing on the median Commissioner and the median MEP.

The Council is not represented as a unitary actor because it uses qualified majority rule.<sup>9</sup> A qualified majority in the Council consists of 62 out of a total of 87 votes.<sup>10</sup> Nonetheless, the analysis of policy making on dimension  $i$  can be simplified by focusing on the countries that are pivotal under the qualified majority rule. The country  $a^i$  that is pivotal for a move to the right on dimension  $i$  thus has an ideal policy to the left of the country with the median vote. In particular, country  $a^i$  is the country with the 26th vote (from the left). Country  $a^i$  and the countries to its right then have 62 votes, and the countries to its right do not constitute a qualified majority without country  $a^i$ . The country  $b^i$  that is pivotal for a move to the left is the country with the 62nd vote.

The unidimensional models are shown in Figure 1. First, the Commission proposes a policy. The Parliament can then offer an amendment, referred to as a joint text. The joint text becomes EU policy if a qualified majority in the Council approves it in the third stage.<sup>11</sup> The new codecision procedure ends with this vote. The status quo then prevails if the joint text does not obtain the support of a qualified majority in the Council. The old codecision procedure consists of two more stages, however. In particular, the countries vote on the Commission proposal in the fourth stage, if no joint text is



approved. If a qualified majority accepts the proposal and the Parliament approves it in the fifth stage, the proposal then becomes EU policy. Otherwise, the status quo prevails.<sup>12</sup>

----- Figure 1 about here-----

The multidimensional models of the procedures, shown in Figure 2, are similar to their unidimensional counterparts. The Commission and the Parliament are not considered as unitary actors, however. The relevant actors are thus the Commissioners, MEPs and countries. First, the Commission President proposes a policy.<sup>13</sup> Subsequently, the Commissioners vote on the proposal. If the proposal obtains the support of a simple majority of the Commissioners, it is sent to the Parliament and the Council. If the proposal fails to obtain the support of a majority of the Commissioners, a status quo proposal is sent to the Parliament and the Council.<sup>14</sup>

---Figure 2 about here---

The MEPs and the countries, as represented in the Council, can together approve a joint text.<sup>15</sup> In particular, the Parliament President can propose a joint text in the third stage. If the Council President approves the joint text in the fourth stage, it is subsequently voted on in the Council and the Parliament in the fifth and sixth stages. The joint text needs the support of a qualified majority in the Council and a majority of MEPs for adoption.<sup>16</sup> The new codecision procedure ends with the countries' and MEPs' votes on the joint text. The status quo then prevails, if no joint text is adopted. Under the old codecision procedure the countries and MEPs vote on the original Commission proposal in the seventh and eighth stages, if no joint text is adopted. The countries and MEPs compare the proposal to the status quo. To be adopted the proposal needs the support of a qualified majority in the

Council and a majority of the MEPs. If no proposal is adopted, the status quo prevails.

The models incorporate complete and perfect information. The actors, i.e., the institutions, countries, MEPs and Commissioners know each other's preferences, the location of the status quo, the impact of proposed policies, the sequential structure of the models, and the actions taken in prior stages of the models.

An equilibrium consists of a strategy for each actor. Strategies tell the actors what actions to choose in the relevant stages of the procedure, given the actions taken in prior stages. The equilibrium concept is subgame perfect Nash. In a Nash equilibrium, no actor can achieve a higher utility by choosing another strategy, given the other actors' strategies. In a subgame perfect Nash equilibrium, actors can do no better than stick to their strategies in any stage of the procedure, even if an actor deviated from the equilibrium strategy in a prior stage.

## **4 The Old Codecision Procedure**

In this section I present the unidimensional and multidimensional models of the old codecision procedure. For each model I go through the different steps of the procedure. I determine sets of successful proposals and equilibrium policies, for any configuration of ideal policies and for any location of the status quo. I also discuss the institutions' powers and the extent of indecision.

### **4.1 The Unidimensional Model of Old Codecision**

Under the old codecision procedure the Commission starts policy making on dimension  $i$  by proposing a policy  $p^i$ , as shown in Figure 1. It wants the policy

to be as close to its ideal policy as possible. This does not imply, however, that the Commission proposes its ideal policy. The Commission understands the roles the Council and the Parliament play in the next stages of the procedure and takes these into account when it makes its proposal.

In the fourth and fifth stages the countries and the Parliament vote on the Commission proposal. The proposal is adopted if the Parliament and a qualified majority in the Council approve it. They approve the Commission proposal if they prefer it to the status quo  $q^i$ . The set  $P(q^i)$  of policies the Parliament approves in the fifth stage, is thus the set of policies the Parliament prefers to the status quo. Similarly, the set  $Q(q^i)$  of policies a qualified majority in the Council approves in the fourth stage, is the set of policies a qualified majority prefers to the status quo.

To illustrate policy making on dimension  $i$  I use the configuration of ideal policies shown in Figure 3. Country  $a^i$ , the Parliament and the Commission, with ideal policies  $\hat{p}_a^i$ ,  $\hat{p}_p^i$  and  $\hat{p}_c^i$  respectively, have ideal policies to the right of the status quo. For simplicity, the status quo  $q^i$  is assumed to be equal to zero. The Parliament has an ideal policy to the left of countries  $a^i$  and  $b^i$  that are pivotal under the qualified majority rule, whereas the Commission is located more to the right. In Figure 3 the Parliament, country  $a^i$  and thus a qualified majority prefer a move to the right. The set  $P(q^i)$  of policies that the Parliament approves in the fifth stage is then the set of policies the Parliament prefers to the status quo. It contains all policies that are closer to the Parliament's ideal policy than is the status quo. Similarly, the set  $Q(q^i)$  of policies that a qualified majority in the Council approves in the fourth stage is the set of policies country  $a^i$  prefers to the status quo.

----- Figure 3 about here-----

A proposal that belongs to the sets  $P(q^i)$  and  $Q(q^i)$  does not necessarily reach the last two stages of the old codecision procedure, however. In the second stage the Parliament can propose a joint text, and this joint text becomes EU policy if a qualified majority approves it in the third stage. Since the countries think ahead, they compare the joint text to the proposal in the third stage. The joint text is then adopted if a qualified majority prefers it to the proposal.

The Parliament can thus successfully propose a joint text in the second stage if there are policies a qualified majority prefers to the proposal. The Parliament uses this opportunity if it prefers such policies to the proposal. As a result, the proposal does not reach the last two stages of the procedure if there are policies the Parliament and a qualified majority prefer to it.<sup>17</sup>

In Figure 3 the Parliament successfully proposes a joint text if the proposal is to the left of its ideal policy. The Parliament, country  $a^i$  and thus a qualified majority then prefer a policy to the right of the proposal. If the proposal is to the right of country  $b^i$ 's ideal policy, the Parliament also successfully proposes a joint text. The Parliament, country  $b^i$  and thus a qualified majority then prefer a policy to the left of the proposal. If the proposal is between the ideal policies of the Parliament and country  $a^i$ , the Parliament cannot successfully propose a joint text. The Parliament prefers policies to the left of the proposal, whereas a qualified majority in the Council prefers policies to the right. If the proposal is between the ideal policies of countries  $a^i$  and  $b^i$ , the Parliament cannot successfully propose a joint text either, since the Council cannot agree on a policy change by a qualified majority.

The Commission realizes that successful proposals need to be preferred to the status quo by the Parliament and a qualified majority in the Council. Moreover, it anticipates that proposals are amended, if the Parliament and a

qualified majority prefer another policy. In the first stage of codecision the Commission proposes the policy it prefers most among the policies that will be approved and will not be amended. Proposition 1 presents the conclusions of the unidimensional model of the old codecision procedure.

**Proposition 1** *Under the old codecision procedure the set  $CD_{old}^i$  of successful proposals on dimension  $i$  is the set of policies that satisfy the following requirements: (1) they are preferred to the status quo by the Parliament and a qualified majority; and (2) no policy is preferred to them by the Parliament and a qualified majority. The Commission successfully proposes the policy  $p_{old}^i$  that belongs to the set  $CD_{old}^i$  and is closest to its ideal policy.*

In Figure 3 the set  $CD_{old}^i$  of successful proposals is the set of policies between the ideal policies of the Parliament and country  $b^i$ . The Commission successfully proposes country  $b$ 's ideal policy, i.e.,  $p_{old}^i = \hat{p}_b^i$ .

## 4.2 The Multidimensional Model of Old Codecision

In the multidimensional model of the old codecision procedure the Commission and the Parliament are not considered as unitary actors. The Commission President makes the proposal and presents it to his fellow Commissioners. The Parliament President then proposes a joint text and she first presents it to the Council President.<sup>18</sup> In other aspects the multidimensional model is similar to the unidimensional model.

In the seventh and eighth stages the countries and MEPs vote on the Commission proposal. They compare it to the status quo. The set  $P(q)$  of policies the Parliament approves in the eighth stage of the old codecision procedure, as shown in Figure 2, is the set of policies a majority of MEPs

prefer to the status quo. Similarly, the set  $Q(q)$  of policies a qualified majority in the Council approves in the seventh stage, is the set of policies a qualified majority prefers to the status quo.

Figure 4 shows the sets  $P(q)$  and  $Q(q)$  for a particular configuration of ideal policies in a two-dimensional policy space. In Figure 4 the two policies that the EU is addressing during the Commission's term are (1) market liberalization (economic policy) and (2) cohesion (social policy). The ideal policies of the countries and MEPs were chosen for illustrative purposes, but they are intended to correspond to reality. The "southern" countries (Spain, Greece, Ireland, Italy and Portugal) want to move far on cohesion, but want little change on market liberalization. They have a total of 31 votes in the Council. The United Kingdom, with 10 votes, wants a lot more liberalization, but little change on cohesion. The "core" countries (Belgium, Germany, France, Luxembourg, the Netherlands and Austria), as well as the "northern" countries (Denmark, Finland and Sweden) have intermediate positions on both issues. They have 36 and 10 votes respectively.

---Figure 4 about here---

Figure 4 also presents the ideal policies of the two principal political groups in the Parliament. These groups are the conservative European People's Party (EPP) and the Party of European Socialists (PES).<sup>19</sup> In Figure 4 I consider these two groups as unitary actors, as they tend to be cohesive. In practice, for a policy to receive the support of a majority of MEPs, the approval of the two main political groups in the Parliament is needed.<sup>20</sup> The set  $P(q)$  is thus the set of policies that are preferred to the status quo by the EPP and PES groups. It is bounded by the dotted parts of the indifference curves of these groups through the status quo.<sup>21</sup>

In the Council the core countries as well as the southern countries represent a blocking minority in Figure 4, i.e., without them no qualified majority can be formed. Moreover, the core and southern countries together constitute a qualified majority. The set  $Q(q)$  is thus the set of policies that are preferred to the status quo by the core and southern countries. It is bounded by the dashed parts of the indifference curves of these countries through the status quo.<sup>22</sup> As a result the set  $P(q) \cap Q(q)$  of policies that are preferred to the status quo by a majority of MEPs and a qualified majority in the Council is the set of policies that are preferred to the status quo by the PES and EPP groups, the southern countries and the core countries. It is bounded by the indifference curves of these groups and countries through the status quo.

A proposal that belongs to the set  $P(q) \cap Q(q)$  does not necessarily reach the last two stages of the old codecision procedure, however. In the third stage the Parliament President can propose a joint text, and this joint text becomes EU policy if the Council President, a majority of MEPs and a qualified majority approve it. Since the Council President, the MEPs and the countries think ahead, they compare the joint text to the proposal. The joint text is then adopted if the Council President, a majority of MEPs and a qualified majority prefer it to the proposal.

The Parliament President can thus successfully propose a joint text in the third stage, if there are policies the Council President, a majority of MEPs and a qualified majority prefer to the proposal. The Parliament President uses this opportunity if she prefers such policies to the proposal. As a result, the proposal does not reach the last two stages of the procedure if there are policies the Parliament and Council Presidents, a majority of MEPs and a qualified majority in the Council prefer to it.

Suppose that in Figure 4 the Parliament President (PP) belongs to the EPP group and that a core country is Council President (CIP). The set  $JT(q)$  of

proposals that get through the last six stages of the old codecision procedure is then the trapezoid formed by the ideal policies of the PES and EPP groups and the core and southern countries. Suppose the Commission proposal belongs to the set  $JT(q)$ . The Parliament President then does not propose a joint text, because there is no policy the Council President, the southern and core countries and the PES and EPP groups prefer to the proposal. The proposal is approved by a majority of MEPs and a qualified majority in the Council, and becomes EU policy.

In the second stage the Commissioners vote on the proposal. Suppose a majority of MEPs and a qualified majority in the Council prefer it to the status quo. Suppose furthermore that there are no policies the Parliament and Council Presidents, a majority of MEPs and a qualified majority in the Council prefer to the proposal. If the Commissioners reject the proposal, a status quo proposal is sent to the Council and the Parliament. The Parliament President then successfully proposes the policy  $jt(q)$  she prefers most among the policies that are preferred to the status quo by the Council President, a majority of MEPs and a qualified majority in the Council. The proposal thus moves on to the third stage if a majority of the Commissioners prefer it to the policy  $jt(q)$ . In Figure 4 the policy  $jt(q)$  is equal to the Parliament President's ideal policy. If the Commission proposes the status quo, the Parliament President can successfully propose any joint text that belongs to the set  $P(q) \cap Q(q)$ . In particular, she successfully proposes her own ideal policy.

The Commission President realizes what policies will be approved by a majority of the Commissioners and MEPs and a qualified majority in the Council. Moreover, he is aware of what policies will be amended in the Conciliation Committee. He takes this into account when he makes his proposal in the first stage of the procedure. Proposition 2 presents the conclusions of the multidimensional model of the old codecision procedure.



**Proposition 2** *The set  $CD_{old}$  of successful proposals under the old codecision procedure is the set of policies that satisfy the following requirements: (1) they are preferred to the status quo by a majority of MEPs and a qualified majority in the Council; (2) no policy is preferred to them by the Parliament and Council Presidents, a majority of MEPs and a qualified majority in the Council; and (3) a majority of the Commissioners prefer them to the policy  $jt(q)$  the Parliament President proposes if the Commission sends her a status quo proposal. In the first stage the Commission President successfully proposes the policy  $p_{old}$  that belongs to the set  $CD_{old}$  and is closest to his ideal policy.*

The first requirement ensures that the proposal receive final approval in the Council and the Parliament. The second requirement makes sure that the proposal not be amended by the Council and the Parliament, whereas the third requirement states that the proposal needs to receive Commission approval.

Suppose that in Figure 4 all countries appoint Commissioners with ideal policies equal to their own, and that the Commission President's (CmP) ideal policy is equal to the core countries' ideal policy. There are then seven Commissioners with ideal policies equal to the southern countries' ideal policy. Eight Commissioners have ideal policies equal to the core countries', three Commissioners are at the northern countries' ideal policy, and two at the UK's. The set  $CD_{old}$  of successful proposals under the old codecision procedure is then the shaded area. It is a subset of the set  $JT(q)$ . The policies in the northwestern part of the set  $JT(q)$  are not preferred to the policy  $jt(q)$ , the EPP's ideal policy, by a majority of the Commissioners: only the Commissioners of the southern countries prefer them. The policies in the set  $JT(q)$  southeast of the UK's indifference curve through the policy  $jt(q)$ , are

preferred to that policy by a majority of the Commissioners and thus constitute the set  $CD_{old}$ . The Commission President then successfully proposes his own ideal policy, the core countries' ideal policy, as EU policy  $P_{old}$ . The Commissioners of the core and northern countries and the UK approve it, because they prefer it to the policy  $jt(q)$ . The Parliament President does not propose a joint text, because there is no policy the Council President prefers to the proposal. All countries, the PES and EPP groups, and thus a majority of MEPs, approve it because they prefer the proposal to the status quo.

### **4.3 Discussion of the Old Codecision Procedure**

In this subsection I discuss the powers of the countries, the Commission and the Parliament, and the extent of indecision under the old codecision procedure. A country or institution's power, given a configuration of ideal policies and status quo, is defined as its ability to obtain a policy that is close to its ideal policy. It is measured by the distance between its ideal policy and the equilibrium policy, a smaller distance indicating more power. Indecision is defined as the EU's inability to act to alter the status quo. It is measured by the set of status quos that cannot be changed through equilibrium play of the procedure.

The Commission has considerable agenda setting powers under the old codecision procedure. It can choose any policy that satisfies the requirements summed up in Proposition 1. The Parliament becomes a genuine co-legislator equal in stature to the Council. Both institutions need to approve Commission proposals, and they can together amend them in the Conciliation Committee.

When setting policy on a single issue, the EU is unable to act in two instances: (1) if no qualified majority in the Council agrees on a new policy; and, (2) if the Parliament does not agree with a qualified majority in the Council. When the EU is choosing policies on multiple issues, there are two additional instances: (3) if no majority of MEPs agrees on a new policy; and, (4) if neither the Commission President and a majority of the Commissioners, nor the Council and Parliament Presidents agree with a majority of MEPs and a qualified majority in the Council.

## **5 The New Codecision Procedure**

### **5.1 The Unidimensional Model of New Codecision**

The new codecision procedure looks like the old procedure without the last two stages, as shown in Figure 1. The countries and the Parliament cannot return to the Commission proposal if they fail to agree on a joint text. As a result the countries compare the joint text to the status quo rather than to the Commission proposal in the third stage of the procedure. The joint text is adopted if a qualified majority prefers it to the status quo.

The Parliament can thus successfully propose a joint text in the second stage if there are policies a qualified majority prefers to the status quo. The Parliament uses this opportunity if it prefers such policies to the status quo. In particular, it proposes the policy it prefers most among the policies that belong to the set  $Q(q^i)$  of policies that are preferred to the status quo by a qualified majority. This policy is approved by a qualified majority in the Council and becomes EU policy. The Commission proposal is irrelevant under the new codecision procedure, as it is no longer the reversion policy if no joint text is approved. In Figure 3 the Parliament proposes its own ideal

policy as a joint text. This policy is adopted, as a qualified majority prefers it to the status quo.

In reality the Parliament does not necessarily get the chance to propose the joint text. Countries could also get the opportunity to propose the joint text. Moreover, the Parliament and the countries can propose amendments to the joint text. In equilibrium the proposer of the joint text, whether it be the Parliament or a country, thus proposes the policy it prefers most among the policies that satisfy the following two requirements: (1) they are preferred to the status quo by the Parliament and a qualified majority in the Council, and (2) no policy is preferred to them by the Parliament and a qualified majority in the Council.

The proposal the Commission makes in the first stage of the procedure has no formal impact on the subsequent stages of the procedure. Proposition 3 presents the conclusions of the unidimensional model of the new codecision procedure.

**Proposition 3** *Under the new codecision procedure the set  $CD_{new}^i$  of successful joint texts on dimension  $i$  consists of the policies that satisfy the following two requirements: (1) they are preferred to the status quo by the Parliament and a qualified majority in the Council, and (2) no policy is preferred to them by the Parliament and a qualified majority in the Council. It is equal to the set  $CD_{old}^i$  of successful proposals under the old codecision procedure. The proposer of the joint text, whether it be the Parliament or a country, successfully proposes the policy it prefers most among the policies that belong to the set  $CD_{new}^i$ . The Commission is irrelevant under the new codecision procedure.*

## 5.2 The Multidimensional Model of New Codecision

The multidimensional model of the new codecision procedure is like the multidimensional model of the old codecision procedure without the last two stages, as shown in Figure 2. As in the unidimensional model no policy is adopted if the Council and the Parliament fail to agree on a joint text.

In the fifth and sixth stages the countries and MEPs vote on the joint text. They compare it to the status quo. The set  $P(q)$  of joint texts the Parliament approves in the fifth stage, is the set of policies a majority of MEPs prefer to the status quo. Similarly, the set  $Q(q)$  of joint texts a qualified majority in the Council approves in the sixth stage, is the set of policies a qualified majority prefers to the status quo. Figure 4 shows the sets  $P(q)$  and  $Q(q)$  for a particular configuration of ideal policies, as mentioned above.

In the fourth stage the Council President approves the joint text, if he prefers it to the status quo. The Parliament President can thus successfully propose a joint text in the third stage if there are policies the Council President, a majority of MEPs and a qualified majority prefer to the status quo. The Parliament President uses this opportunity if she prefers such policies to the status quo. In particular she proposes as a joint text the policy she prefers most among the policies the Council President, a majority of MEPs and a qualified majority prefer to the status quo. This joint text is approved by the Council President, a majority of MEPs and a qualified majority in the Council. As a result, it becomes EU policy. As in the unidimensional model the Commission proposal is irrelevant, because the countries and MEPs cannot turn back to it if they fail to agree to a joint text. In Figure 4 the Parliament President successfully proposes her ideal policy, which is equal to the EPP's ideal policy.

In reality the Parliament President does not necessarily get the chance to propose the joint text. The Council President could also get the opportunity to

propose the joint text. Moreover, the Parliament and Council Presidents can propose amendments to the joint text. In equilibrium the proposer of the joint text, whether he be the Parliament or Council President, thus proposes the policy he prefers most among the policies that satisfy the following two requirements: (1) they are preferred to the status quo by the Parliament and Council Presidents, a majority of MEPs and a qualified majority in the Council; and (2) no policy is preferred to them by the Parliament and Council Presidents, a majority of MEPs and a qualified majority in the Council.

As in the unidimensional model, the proposal the Commission makes in the first stage has no formal impact on the subsequent stages of the procedure. Proposition 4 presents the conclusions of the multidimensional model of the new codecision procedure.

**Proposition 4** *The set  $CD_{new}$  of successful joint texts under the new codecision procedure consists of the policies that satisfy the following two requirements: (1) they are preferred to the status quo by the Council and Parliament Presidents, a majority of MEPs and a qualified majority in the Council; and (2) no policy is preferred to them by the Council and Parliament Presidents, a majority of MEPs and a qualified majority in the Council. The proposer of the joint text, whether he be the Parliament or Council President, successfully proposes the policy he prefers most among the policies that belong to the set  $CD_{new}$ . The Commission is irrelevant under the new codecision procedure.*

In Figure 4 the set  $CD_{new}$  is the trapezoid formed by the ideal policies of the southern and core countries and the PES and EPP. It is a superset of the set  $CD_{old}$ , because the approval of a majority of the Commissioners is not required.

### 5.3 Discussion of the New Codecision Procedure

The Commission loses its agenda setting powers under the new codecision procedure. In the absence of informational asymmetries and informal rules it becomes completely irrelevant. Under the old procedure the Commission could choose a policy that would not be amended in the Conciliation Committee and would receive final approval in the Parliament and the Council. The Commission cannot choose EU policy under the new procedure, because its proposal no longer provides a reversion policy in case the Conciliation Committee fails to agree to a joint text. If no joint text is approved, the status quo prevails. The Commission proposal is thus irrelevant during the negotiations in the Conciliation Committee.

Under the new procedure the Council and the Parliament have agenda setting powers, rather than the Commission. The proposer of a joint text can successfully propose any policy that satisfies the two requirements mentioned in Proposition 3. The first requirement ensures that the joint text receive final approval in the Parliament and the Council. The second requirement makes sure that the joint text not be amended by the Council and the Parliament.

Whether the procedural changes do indeed lead to an increase in the Parliament and countries' powers depends on the configuration of ideal policies and their bargaining powers within the Conciliation Committee. The countries and the Parliament gain power if the proposer of the joint text chooses a policy that is closer to their ideal policies, than is the policy the Commission would choose under the old procedure. Similarly, the Parliament and the countries gain power if they have much bargaining power in the Conciliation Committee. The Parliament thus loses power if a country whose ideal policy is further from the Parliament's ideal policy than is the Commission's ideal policy proposes the joint text under the new procedure.

There is more indecision under the new than under the old procedure. When choosing policy on a single issue, the EU is unable to act in two instances, as under the old procedure: (1) if no qualified majority in the Council agrees on a new policy; and, (2) if the Parliament does not agree with a qualified majority in the Council. When the EU is considering multiple issues, there are two more instances: (3) if no majority of MEPs agrees; and, (4) if the Council and Parliament Presidents do not agree with a majority of MEPs and a qualified majority in the Council. The fourth requirement is stricter than under the old procedure, because the Council and Parliament Presidents have to agree to a change even if a majority of the Commissioners agrees. Moreover, indecision increases if the bargaining process in the Conciliation Committee is not well specified. The status quo prevails if the Committee does not reach agreement.

## **6 Conclusions**

Under the old codecision procedure a proposal is successful if (1) the Parliament and a qualified majority in the Council prefer it to the status quo, and (2) no policy is preferred to it by the Parliament and a qualified majority in the Council. The Commission successfully proposes the policies it prefers most among the policies that satisfy these requirements.

Under the new codecision procedure the Commission proposal is irrelevant. A joint text becomes EU policy if (1) the Parliament and a qualified majority in the Council prefer it to the status quo, and (2) no policy is preferred to it by the Parliament and a qualified majority in the Council. The equilibrium EU policy is not chosen by the Commission President, but, rather, is determined by the Parliament and Council and depends on their respective bargaining powers in the Conciliation Committee.



The changes to the codecision procedure agreed to in Amsterdam thus reduce the Commission's powers. In fact, the Commission becomes irrelevant under the new codecision procedure. Whether the Parliament and the countries' powers increase depends on the bargaining within the Conciliation Committee and on their ideal policies. If they have little bargaining power and preferences similar to the Commission's, they lose power. Otherwise, they stand to gain power.

Rather than strengthening the Parliament's powers and reducing the Council's powers, as those responsible for the changes intended, they have thus reduced the Commission's powers. Moreover, they decrease the Parliament's powers, insofar as the Parliament can be considered to have preferences similar to the Commission's, as is often supposed, and to have little bargaining power compared to the Council. Indecision increases under the new procedure.

Even though some elements not included in the models introduced in this paper such as the Commission's expertise in a world characterized by imperfect information and informal rules may somewhat soften the main conclusions, it seems fair to conclude that the drafters of the Amsterdam Treaty have taken powers away from appointed Commissioners. They might also have strengthened the powers of directly elected MEPs, but this is not an automatic consequence of their institutional tinkering. Indeed, the Amsterdam alterations might ultimately prove to bolster the position of national representatives in the Council. Hence, whether the democratic deficit will shrink or grow remains to be seen.

Figure 1: The Codecision Procedure: One Dimension.

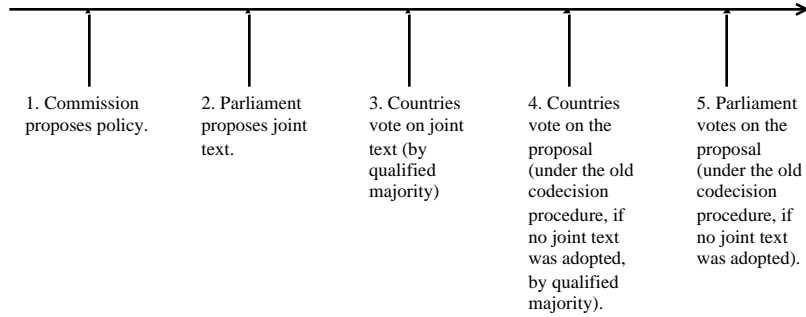


Figure 2: The Codecision Procedure: Multiple Dimensions.

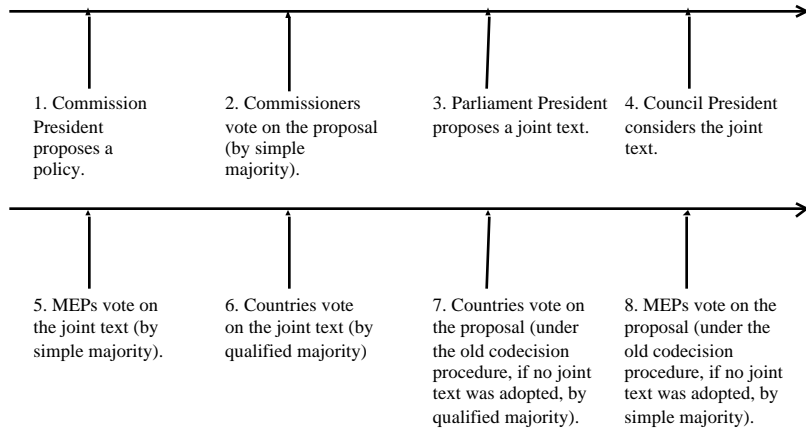


Figure 3: Policy Making: One Dimension.

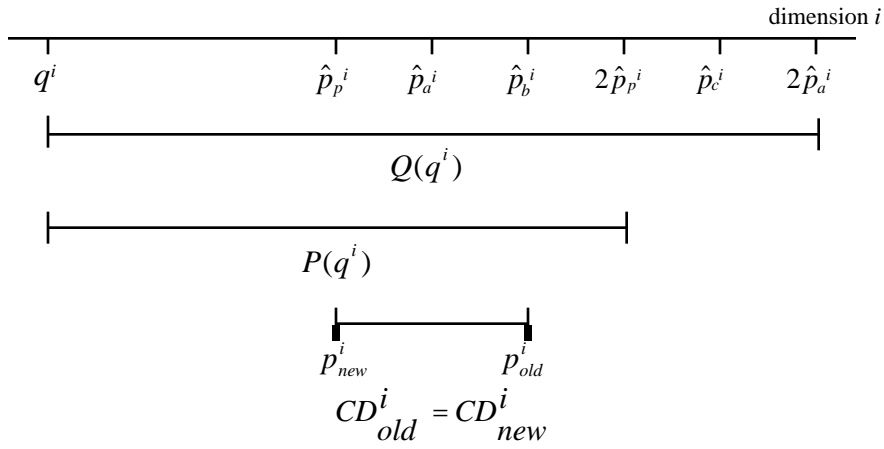
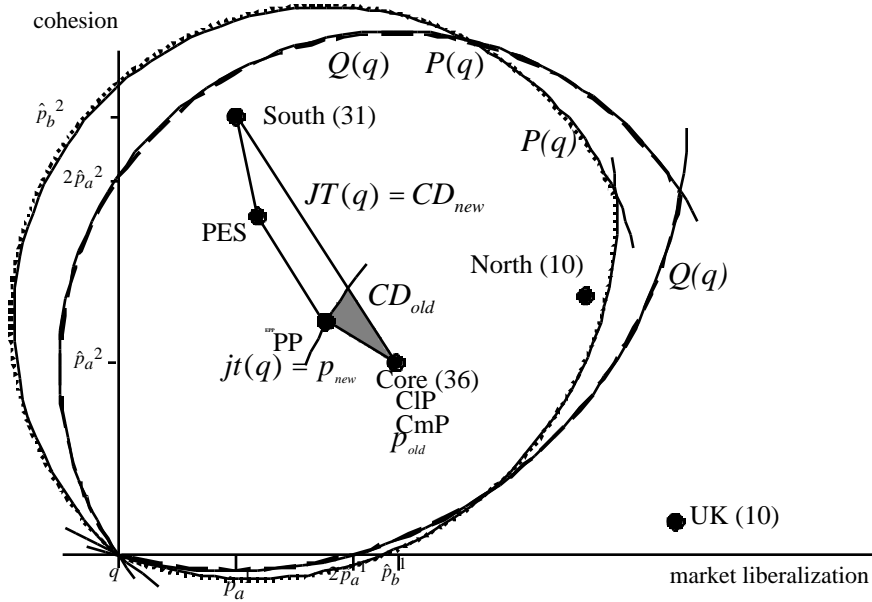


Figure 4: Policy Making: Multiple Dimensions.



## References

- Black, Duncan. 1958. *The Theory of Committees and Elections*. London: Cambridge University Press.
- Corbett, Richard, Francis Jacobs and Michael Shackleton. 1995. *The European Parliament*. London: Cartermill International Ltd.
- Crombez, Christophe. 1996. "Legislative Procedures in the European Community." *British Journal of Political Science* 26:199-228.
- Crombez, Christophe. 1997a. "The Codecision Procedure in the European Union." *Legislative Studies Quarterly* 22:97-119.
- Crombez, Christophe. 1997b. "Policy Making and Commission Appointment in the European Union." *Aussenwirtschaft* 52:63-82.
- Crombez, Christophe. 1998. "Spatial Models of Logrolling in the European Union." *Working Paper 9823*. Katholieke Universiteit Leuven.
- Curtin, Deirdre. 1993. "The Constitutional Structure of the Union: A Europe of Bits and Pieces." *Common Market Law Review* 30:17-69.
- European Parliament. 1992. *Maastricht, the Treaty on European Union, Position of the European Parliament*. Luxembourg: Office for Official Publications of the European Communities.
- Garrett, Geoffrey. 1996. "From the Luxembourg Compromise to Codecision: Decision Making in the European Union." *Electoral Studies* 14:289-308.
- Garrett, Geoffrey, and George Tsebelis. 1996. "An Institutional Critique of Intergovernmentalism." *International Organization* 50:269-99.

Moser, Peter. 1996. "The European Parliament as a Conditional Agenda Setter: What are the Conditions? A Critique of Tsebelis (1994)." *American Political Science Review* 90:834-8.

Moser, Peter. 1997. "A Theory of the Conditional Influence of the European Parliament in the Cooperation Procedure." *Public Choice* 91:333-50.

Nugent, Neil. 1994. *The Government and Politics of the European Community*. London: Macmillan.

Steunenberg, Bernard. 1994. "Decision Making Under Different Institutional Arrangements: Legislation by the European Community." *Journal of Institutional and Theoretical Economics* 150:642-69.

Steunenberg, Bernard. 1998. "Constitutional Change in the European Union: Parliament's Impact on the Reform of the Codecision Procedure." *Working Paper*. University of Twente.

Steunenberg, Bernard, Christian Koboldt and Dieter Schmidtchen. 1996. "Policymaking, Comitology, and the Balance of Power in the European union." *International Review of Law and Economics* 16:329-44.

Tsebelis, George. 1994. "The Power of the European Parliament as a Conditional Agenda Setter." *American Political Science Review* 88:128-42.

Tsebelis, George. 1996. "More on the Power of the European Parliament as a Conditional Agenda Setter: Response to Moser." *American Political Science Review* 90:839-44.

Tsebelis, George. 1997. "Maastricht and the Democratic Deficit." *Aussenwirtschaft* 52:29-56.

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<sup>1</sup> The Council, the Parliament and the Commission are the three principal institutions involved in the EU legislative process. The Council is an intergovernmental body. It consists of

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representatives of the member countries' national governments. It is the main legislative institution in the EU. The Parliament is directly elected. It co-legislates with the Council under some of the EU's legislative procedures. The Commission is the EU's executive. It is appointed by the Council and the Parliament. It proposes and implements EU legislation. Currently, the Council has 15 members, the Parliament 626, and the Commission 20. The five largest countries (Germany, Spain, France, Italy and the United Kingdom) have two Commissioners each, the other countries have one each. See Nugent (1994) for a more detailed description of the EU institutions.

<sup>2</sup> The codecision procedure is one of the three principal legislative procedures in the EU. The other two procedures are the consultation and cooperation procedures. Under consultation the Commission makes a proposal, which is then subject to a vote in the Council. Under cooperation the additional approval of the Parliament is needed. Under codecision the Council and the Parliament can together amend Commission proposals. The consultation procedure accounts for about two thirds of EU legislation (154 opinions in 1997), the cooperation procedure for about 10 percent (19 first readings in 1997), and the codecision procedure for about 15 percent (34 first readings in 1997).

<sup>3</sup> Whether involving the Parliament more in the legislative process does indeed increase the EU's democratic accountability remains a matter of debate. In September 1994, the then British Prime Minister John Major declared that "the European Parliament is not the answer to the democratic deficit as the pitifully low turn-out in this year's European elections so vividly illustrated... We must wait and see if, over time, our electorates begin to take European elections more seriously. But, for now, it would be premature to consider a further increase in the Parliament's powers." Euro-skeptics can echo this argument more loudly than ever in light of the still lower turn-out in the 1999 European elections. In the opinion of euro-enthusiasts, by contrast, the European electorate will take the Parliament more seriously as its powers are increased, and so 1999 is not properly understood as a referendum on the post-Amsterdam EU.

<sup>4</sup> I reach these conclusions based on the models I develop in this paper. Even though these models capture the principal characteristics of the procedures, they simplify policy making somewhat, as do all models. Informal rules and informational asymmetries that may exist, for example, are disregarded. As a result, the conclusions do not reflect such rules and asymmetries. Nonetheless, the conclusions identify the principal consequences of the new procedure. Therefore, they can serve as a baseline for further research.

<sup>5</sup> Spatial models of the EU institutions and legislative procedures have become increasingly popular since the beginning of the 1990s. Steunenberg (1994) and Crombez (1996, 1997a) present comprehensive analyses of the EU's legislative procedures. Tsebelis (1994, 1996) and Moser

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(1996, 1997) analyze the cooperation procedure. Some scholars use spatial models to study specific issues related to the EU legislative process. For instance, Steunenberg, Koboldt and Schmidtchen (1996) analyze the “comitology” procedures, that is, the procedures governing the implementation of EU legislation. Crombez (1997b) endogenizes the Commission’s preferences by studying the Commission appointment process. Crombez (1998) provides a theoretical analysis of logrolling in the EU legislative process, and finds that it provides considerable opportunities for logrolling.

<sup>6</sup> The unidimensional model of the old codecision procedure was presented earlier by Crombez (1997a).

<sup>7</sup> Readers less familiar with formal models can skip the subsections on the multidimensional models, as the conclusions are similar to their unidimensional counterparts. I present the multidimensional models principally to show that the conclusions of the unidimensional models can be extended to multidimensional settings.

<sup>8</sup> In other words Black's median voter theorem applies (Black 1958).

<sup>9</sup> In some policy areas the Council uses unanimity rule.

<sup>10</sup> France, Germany, Italy and the United Kingdom have 10 votes each; Spain 8; Belgium, Greece, Portugal and the Netherlands 5 each; Austria and Sweden 4 each; Denmark, Finland and Ireland 3 each; and Luxembourg 2.

<sup>11</sup> I skip several steps of the codecision procedure that precede the proposal of a joint text. These steps are irrelevant in perfect information models. In the presence of informational asymmetries, however, they might facilitate the exchange of information amongst political actors. As for the proposal of a joint text, this is not the exclusive right of the Parliament. Countries can propose joint texts as well. Nonetheless, the assumption that the Parliament proposes the joint text does not affect the conclusions, as will be clear below.

<sup>12</sup> The following two paragraphs introduce the multidimensional models. They can be skipped by readers less familiar with formal models.

<sup>13</sup> I assume that the Commission President makes a proposal within the Commission. This seems reasonable given the Commission President’s prominent role in the Commission.

<sup>14</sup> For simplicity I assume that Commissioners do not amend proposals made by the Commission President.

<sup>15</sup> A joint text is worked out in the Conciliation Committee and then voted on in the Council and the Parliament. The Conciliation Committee consists of the members of the Council and an equal number of representatives of the Parliament. The Council and Parliament Presidents (or their representatives) take turns at chairing the Committee’s meetings. Both Presidents also convene prior to the Committee’s meetings to agree on a compromise. Therefore, it seems

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reasonable to assume that the Presidents present a joint text they agree on to the Council and the Parliament. In the model I assume that the Parliament President proposes the joint text. This assumption does not affect the conclusions. See Corbett et al. (1995) on the functioning of the Conciliation Committee.

<sup>16</sup> The Parliament uses absolute majority rule. As I disregard abstentions, absolute majority rule is equivalent to simple majority rule. Therefore, I omit the adjective “absolute” throughout this paper.

<sup>17</sup> Moreover, the joint text is preferred to the status quo by the Parliament and a qualified majority in the Council, and no policy is preferred to the joint text by the Parliament and a qualified majority.

<sup>18</sup> Throughout the paper Commissioners will be assumed to be male and MEPs female.

<sup>19</sup> Since the June 1999 elections the EPP group consists of about 230 members, whereas the PES group has about 180 members in the 626 member Parliament.

<sup>20</sup> The political balance shifted rightward in the June 1999 elections. It remains to be seen whether this will have an impact on decision-making within the Parliament.

<sup>21</sup> The upper dotted arc is a segment of the EPP’s indifference curve, whereas the lower dotted arc is a segment of the PES’s indifference curve.

<sup>22</sup> The upper dashed arc is a segment of the core countries’ indifference curve, whereas the lower dashed arc is a segment of the southern countries’ indifference curve.