

The Institutional Foundations of European Union Negotiations

Jonas Tallberg

Stockholm University

jonas.tallberg@statsvet.su.se

European Union negotiations take place within the framework of a set of formal and informal institutions. Member states negotiate in the organizational context of the Council and the European Council, take decisions through alternative procedures and decision rules, and sustain a set of norms for the conduct of negotiations. While the effects of these institutions on negotiation behavior and outcomes have received extensive attention, the question of why these particular organizations, procedures, and norms have been established remains seriously underexplored. This paper makes an argument in favor of systematic attention to the design of negotiation institutions in the EU. It suggests that there is much to benefit from drawing explicitly on general theoretical approaches to international institutional design. Reviewing existing empirical work on organizations, procedures, and norms in EU negotiations, the paper finds an unexploited potential for theoretical dialogue between rational choice institutionalism, sociological institutionalism, and realism on the sources of European negotiation institutions.

Key words: European Union, negotiation, bargaining, institutions, organizations, rules, norms.

Paper prepared for the workshop “Negotiation Theory and the EU: The State of the Art,” Dublin, November 14-15, 2008. Word count: 6,343.

Introduction

Over the past decade, the dynamics of negotiation in the European Union (EU) has emerged as a prominent sub-field in the study of EU politics. Some scholars have sought to explain the patterns of legislative negotiations between the EU institutions (e.g., Thomson et al. 2006), or the outcomes of treaty-revision negotiations between the member governments of the EU (e.g., Moravcsik 1998). Others have addressed the sources of bargaining power (e.g., Bailer 2004), the modes of negotiation (e.g., Elgström and Jönsson 2000), the patterns of coalition formation (e.g., Naurin and Lindahl 2008), the scope for leadership (e.g., Tallberg 2006), the impact of norms on negotiation behavior (e.g., Lewis 2005), and the EU as an external negotiator (e.g., Meunier 2005). Drawing on general negotiation theory, a range of edited volumes have explored the specifics of negotiations in the EU (Elgström and Smith 2000; Meerts and Cede 2004; Elgström and Jönsson 2005).

A common and central theme in this literature, in all diversity, is the extent to which the patterns and outcomes of negotiations in the EU are shaped by the institutional context in which bargaining takes place. That “institutions matter” is not a claim in this literature; it is an assumption. Formal organizations, rules and procedures define the arena, the actors and the rules of the game, while informal norms and understandings prescribe and proscribe alternative forms of negotiation behavior. Yet, given this causal importance assigned to institutional context, existing research is remarkably silent on the sources of these formal and informal institutions. Why have these particular organizational frameworks been established, decision-making procedures chosen, and informal norms evolved? In short, what explains the institutional design of negotiation institutions in the EU?

This paper speaks in favor of systematic attention to the sources of institutional design in EU negotiations. More specifically, I suggest that there is much to benefit from drawing explicitly on general theoretical approaches to international institutional design for purposes

of explaining the framework governing EU negotiations. Rational choice institutionalism, sociological institutionalism, and realism offer three alternative understandings of institutional design, generating competing hypotheses about the factors shaping negotiation institutions. Reviewing existing empirical work on organizations, procedures, and norms in EU negotiations, I find that there is an unexploited potential for hypothesis testing and theoretical dialogue. While scholars have made some attempts to address the origins of EU negotiation institutions, the attention is uneven and these efforts seldom informed by general theoretical approaches. In the paper, I suggest that a more explicit grounding of empirical research in these multiple theoretical approaches opens up a novel and important research agenda on the institutional foundations of EU negotiations.

For the purposes of this paper, I adopt a broad understanding of institutions as the organizations, procedures, and norms governing EU negotiations. Following this understanding, I will address as organizations the Council and the European Council; as procedures the decision rules, the level of parliamentary involvement, and the rotating chairmanship; and as norms the notions of consensus and impartiality in EU negotiations. Institutional design in this paper is understood in neutral theoretical terms as the establishment or development of a specific institutional form.

The paper proceeds in the following way. In the next section, I explain how rational choice institutionalism, sociological institutionalism, and realism present competing conceptions of the factors driving institutional design, emphasizing power considerations, functional imperatives, and legitimacy concerns, respectively. In the subsequent three sections, I suggest that existing research on negotiation institutions in the EU may benefit from relating explicitly to these approaches. I discuss, in turn, organizations, procedures, and norms in EU negotiations. The paper ends with a conclusion that summarizes the argument and expands on its broader implications.

Explaining International Institutional Design

In recent years, issues of institutional design have become increasingly prominent in the study of international institutions (Simmons and Martin 2002). Three distinct approaches may be distinguished, each privileging an alternative set of factors.

Functional Efficiency

The first approach, informed by rational choice institutionalism, emphasizes functional efficiency as the driving concern in the design of international institutions. This approach perceives of institutional design in functionalist terms, explaining the creation and form of a particular institution with the benefits it is expected to produce. The analytical bed-rock is the proposition that institutions are created and designed to address shortcomings in the market or the political system as a means of producing collectively desirable outcomes (Williamson 1975; Weingast and Marshall 1988). In the study of international cooperation, this explanation has been deployed to account for the demand for international institutions (Keohane 1984; Martin 1992), the delegation of power to international institutions (Tallberg 2002; Pollack 2003; Hawkins et al. 2006), and the shape of international rules and organizations (Abbott and Snidal 2000; Koremenos et al. 2001). Typically, the origin and form of international institutions has been explained with reference to their capacity to help states overcome collective-action dilemmas, related to high transaction costs, information asymmetries, and enforcement problems. Recognizing that not all areas of governance are subject to the same dilemmas, or dilemmas of identical intensity, rational choice institutionalists have introduced the nature of cooperation problems as a factor explaining variation in international institutions. When applied to the context of EU negotiation

institutions, this approach generates the expectation that member state consideration with functional efficiency will determine the choice and design of organizations, procedures, and norms, with limited regard to concerns of legitimacy or power.

Normative Legitimacy

The second approach, informed by sociological institutionalism, privileges legitimacy concerns as factors shaping institutional design decisions in world politics. This approach directs our attention to processes of norm diffusion and institutional mimicking as the sources of institutional design. Its analytical foundation is the notion that institutions reflect broadly shared ideas and norms of what constitutes appropriate and legitimate modes of governance (March and Olsen 1989; Powell and DiMaggio 1991). In this view, institutional design is a process where low priority is given to concerns of efficiency, relative to concerns of legitimacy. Actors adopt certain procedures and practices, not because they necessarily are the most efficient, but because they constitute collectively legitimated institutional models. The emergence and spread of new norms typically gives rise to the phenomenon of isomorphism – the diffusion and homogenization of institutional models across functional domains. In the study of international relations, broadly conceived, this explanation has been used to account for the liberal economic order of the post-war period (Ruggie 1983), the growth in international NGOs (Boli and Thomas (1999), the diffusion of central bank independence as an institutional model (McNamara 2002), and the dysfunctionality of international institutions (Barnett and Finnemore 2004). When applied to the context of EU negotiation institutions, this approach generates the expectation that states will adopt organizations, procedures, and norms that are broadly considered legitimate, by reference to established institutional models, but not necessarily functionally efficient or balanced in terms of distributional implications.

Relative Power

The third approach, informed by realism, emphasizes the expected distributional implications of international institutions as the most prominent factor in design decisions. This approach conceives of international institutions as reflections of the distribution of state power in world politics (Waltz 1979; Mearsheimer 1994/95). In this view, international institutions are created at the initiative of the most powerful states in the international system, and designed to disproportionately serve their interests. Negotiated norms, rules, and procedures safeguard and advance, rather than challenge and circumscribe, the interests of the dominant states. International institutions are thus epiphenomenal to state interests, and constitute arenas for acting out power relations, rather than independent constraints on state behavior. This approach suggests that the most powerful states have a disproportionate capacity to coax and cajole weaker states into accepting institutional arrangements in their favor. In the study of international cooperation, this approach has been advanced to explain the distributional terms of global communications regimes (Krasner 1991), the capacity of the founding states of NAFTA and the EMU to dictate the terms of cooperation (Gruber 2000), the influence of the Franco-German tandem in the EU (Pedersen 1998), and the dominance of the U.S. and the EU in international regulatory regimes (Drezner 2007). When applied to the context of EU negotiation institutions, this approach generates the expectation that organizations, procedures, and norms will be structured in favor of the large and structurally advantaged member states, rather than to meet concerns with functional efficiency or normative legitimacy.

In the subsequent three sections, I draw on these approaches to international institutional design in structuring the findings from existing empirical research on EU negotiation institutions, and identifying promising areas for future research.

Organizations

Until very recently, one of the prominent oddities in the intellectual history of EU research was the dearth of work on the two central intergovernmental bargaining organizations (but see Westlake and Galloway 2004; Hayes-Renshaw and Wallace 2006). While identified in standard accounts of the EU as the arenas where the most important decisions are taken, the Council and the European Council remained seriously underexplored. In just the past few years, however, we have witnessed a development “from rags to riches,” to borrow a chapter title from a recent edited volume on the topic (Naurin and Wallace 2008). Drawing on theories from international relations and comparative politics, and employing advanced quantitative and qualitative methods, scholars have finally put the Council under the microscope, addressing issues such as negotiation style, coalition formation, and leadership (e.g., Heisenberg 2005; Zimmer et al. 2005; Naurin and Wallace 2008). Similarly, we are just beginning to see systematic research on the European Council, with contributions focusing on issues such as the sources bargaining power and the degree of party politicization in EU summitry (Tallberg 2008; Tallberg and Johansson 2008).

These advances notwithstanding, there is still little theory-informed research on the creation and design of the Council and the European Council as negotiation organizations. Historical accounts of the establishment of the Council and the European Council, as well as studies detailing their subsequent institutional development, tend to be descriptive in orientation and not to relate to alternative understandings of institutional design (e.g., Bulmer and Wessels 1987; Westlake and Galloway 2004). However, in a set of areas, we find empirical results that may be interpreted as evidence of the influence of functional efficiency, normative legitimacy, and relative power in the design of these organizations.

As an intergovernmental negotiation body, the Council per se conforms to the expectations of functional theories of international regimes. By constituting a permanent

negotiation forum, the Council reduces the transaction costs of bargaining, distributes information among the parties, contributes to a convergence of expectations, and extends the shadow of the future, thus providing states with a powerful rationale for its establishment and maintenance. The sub-structure of the Council may be interpreted as designed with a view to efficiency as well. In organizational terms, the Committee of Permanent Representatives (Coreper) has evolved over time in response to functional demands. For instance, the division of Coreper into two bodies “was designed to achieve efficiency in managing the twenty-odd sectoral formations of the Council” (Lewis 2000: 264). Similarly, the establishment of the General Secretariat of the Council is readily understandable in rational functionalist terms (Hamlet 2002; Beach 2008). Much like international secretariats generally, the Council Secretariat helps states to solve informational and distributional problems, by providing expertise and unbiased mediation.

While rational choice institutionalism thus may help to explain the basic demand for the Council as a negotiation body and the General Secretariat as a support structure, sociological institutionalism can shed light on the historical design choice in favor of the Council as institutional model. It is broadly acknowledged that ideas influenced the choice of the EU’s organizational structure in the 1950s, which diverged from that of standard intergovernmental institutions in world politics (Moravcsik 1998: 488; Rittberger 2001; Parsons 2003). In the negotiations over the Council, a Benelux proposal for the establishment of such a body, motivated by the need to provide a governmental check on the supranational High Authority, initially met with French and German disapproval. Yet both delegations eventually yielded, and the German acceptance of this addition to the Schuman Plan has been attributed to the influence of domestic constitutional norms, in the shape of the concept of the *Bundesstaat*, which allowed a role for the Council (Rittberger 2001: 696).

Turning to the European Council, functional efficiency looms large in accounts of the establishment and development of this body, even if its institutional design rarely is discussed explicitly in these terms. The founding of the European Council in 1974 is often attributed to structural political pressures that generated a demand for the involvement of heads of state and government in policy coordination (Bulmer and Wessels 1989: 17; Schoutete 2006). In this view, international economic and political pressures in the early 1970s, in combination with stalemate in the Council of Ministers, translated into a need for political leadership provided through the establishment of the European Council. Moreover, there is empirical support for the view that the subsequent development of this body, from an informal forum of collective leadership into a formal body of collective decision-making, may be understood in similar terms. While, clearly, it was not the intention of the member states when creating the European Council that it would serve as ultimate decision-maker and “court of appeal” in complex or controversial issues, its historical development reflects adjustments to deficiencies in the functioning of the Council (Hayes-Renshaw and Wallace 2006: ch. 6; Schoutete 2006: 50).

However, the founding of the European Council also involved aspects of institutional mimicking and power politics that supplement the rational functionalist account. Inspiration from institutional models elsewhere greatly shaped the positions of France and Germany, whose combined clout in the EU explains the institutionalization of these ideas in the design of the European Council. More specifically, the notion of an informal discussion forum at the highest level was inspired by the “Library Group” of American, British, French, and German finance ministers, which Valéry Giscard d’Estaing and Helmut Schmidt had participated in and come to appreciate before they became president and chancellor, respectively (Westlake and Galloway 2004: 174-175). It has also been argued that the strictly intergovernmental design of the European Council was influenced by the joint skepticism of Giscard d’Estaing

and Schmidt toward further supranational integration – a position conformant to the Gaullist conception of Europe (Bulmer and Wessels 1987: 9; Moravcsik 1998: 485). However, the French and German initiative to establish the European Council is also understandable from a pure power perspective. The creation of this body outside the treaties introduced a political domain in the EU where power could rein unfettered by the mediating influence of the Community institutions. Conversely, fear of increased Franco-German dominance, and dismissal of the Gaullist vision of Europe, helped to mobilize the Benelux states against the proposal, which only was adopted as part of a package involving other institutional changes with a distinct supranational flavor, including direct elections to the European Parliament (Bulmer and Wessels 1987: 36, 44).

Procedures

The rules and procedures governing decision-making in the EU have been a constant topic on the political and academic agenda since the late 1980s. For more than two decades, from the negotiations on the Single European Act (SEA) to the ratification of the Lisbon Treaty, the EU has been involved in a continuous process of constitutional revision. Few topics have received as massive attention from students of EU politics as the consecutive intergovernmental conferences (IGCs) (e.g., Laursen 2002; Moravcsik 1998; Beach and Mazzucelli 2007). Notably, scholars have addressed the issue of where state interests come from, tracing the formation of national preferences, and the issue of how to explain outcomes, mapping processes of interstate bargaining. While questions of institutional design have been part and parcel of this literature, it has seldom been its explicit focus. That said, there are a number of contributions that demonstrate the merits of drawing on theories of institutional design for understanding the procedures governing EU negotiations. Below, I address three

such procedural aspects of EU negotiations: the decision rules, the degree of parliamentary involvement, and the rotating chairmanship.

While the continuous move away from unanimity and toward qualified majority voting as decision rule in the Council presents a challenge to realism, both rational choice institutionalism and sociological institutionalism may offer insights into this development. According to the most prominent rationalist take on the expansion of majority voting, this corresponds to a pooling of sovereignty that is conducted in response to problems of incomplete contracting (Moravcsik 1998). Majority voting, alongside Commission initiative and third-party enforcement, serves as a relational contract among states that precommit them to a common set of principles, norms, and procedures. The specific extent to which governments advocate and move toward majority voting is the product of a cost-benefit analysis, where the efficiency of common decisions is weighed against the desire of individual countries to reduce political risks by retaining the veto. Empirically, this understanding receives some support in the evidence on the SEA negotiations, initiating the move toward majority voting, and more extensive support in the negotiations on the Maastricht and Amsterdam treaties, extending this rule (Moravcsik 1998; Moravcsik and Nicolaidis 1999).

Yet accounts of IGCs suggest that concerns with functional efficiency do not provide the full picture; notions of legitimate institutional models matter as well. More specifically, majority voting as decision rule in the Council is a core component of the federalist model of the EU. Support for the influence of federalist/nationalist ideology is generated in those instances where governments display homogenous support or opposition to the introduction and extension of majority voting, rather than balance costs and benefits on a case-by-case basis (Moravcsik 1998: 68-71). Examples include general historical patterns, such as the

consistent support of the Benelux countries for majority voting, as well as individual cases, such as Margaret Thatcher's instinctive opposition to majority voting at the 1986-87 IGC.

While negotiations over new EU rules for long was a strictly intergovernmental affair, the European Parliament since the mid-1980s has advanced from a purely consultative role to that of co-decision-maker in most issue areas. The requirement of agreement with the Parliament today constitutes a central procedural aspect of negotiations in the Council. While a realist approach to institutional design has extensive difficulties accounting for this development, so, too, has rational choice institutionalism (but note Héritier 2007: 69-120). As opposed to the delegation of power to the Commission and the Court of Justice, the empowerment of the Parliament cannot be readily explained in functionalist terms (Moravcsik 1998; Pollack 2003). There is a poor fit between the functions conferred on the Parliament and those typically delegated from principals to agents, according to rationalists theory.

Instead, the empowerment of the European Parliament is best explained by normative legitimacy concerns related to the EU's institutional structure as a whole (Rittberger 2005). While improving problem-solving capacity, the transfer of power to the European level has challenged traditional channels of representation and accountability, and generated a legitimacy deficit in the EU. Inspired by the institutional model of representative, parliamentary democracy, well established at the national level, the member states have sought to address this deficit by gradually expanding the powers of the European Parliament.

The rotating chairmanship of the Council and the European Council – the Presidency – constitutes a third procedural dimension of EU negotiations that merits specific attention. In recent years, the literature has increased substantially in volume and moved from description to theory development and hypothesis testing. However, the predominant concern of this body of research has been Presidencies' potential influence over agendas and outcomes (e.g.,

Metcalf 1998; Tallberg 2006; Warntjen 2007). The institutional design of the Presidency office has been the topic only of isolated contributions.

In one explicit rational institutionalist account, the historical evolution of the Presidency office is interpreted as a functional response to demands for agenda management, brokerage, and representation in the EU (Tallberg 2006, ch. 3). While originally only an administrative assignment, the Presidency has evolved over five decades into a distinctly political function. Primary sources reveal that the search for efficient modes of negotiation and decision-making has been the *leitmotif* of this process. Where other institutional solutions to bargaining problems than strengthening Presidency were available, these alternatives were duly considered and most often discarded. Where the rotation design of the Presidency gave rise to predictable problems of discontinuity, EU governments sought to address these through the creation and strengthening of mechanisms of continuity. Through its emphasis on rational adaptation, this account contrasts with the common view that the Presidency “has grown in status more by default than by design” (Kirchner 1992: 71).

While sociological institutionalists yet have not addressed the institutional design of the Presidency, there is an unexploited potential for research tracing the adoption of the rotation model in the 1950s (one of three in world politics), and its potential export to other regional organizations, such as the European Free Trade Association (EFTA), the Nordic Council of Ministers, the Western European Union (WEU), and the Organization of Security and Cooperation in Europe (OSCE). For realists, expecting the most powerful states to design institutions to their advantage, the rotation of the chairmanship presents a challenge, given the documented benefits of holding the Presidency. Yet this approach may nevertheless shed light on one central process pertaining to the institutional design of this office, namely the move toward a semi-permanent president of the European Council in the Lisbon Treaty. Despite massive opposition from the EU’s small and medium-sized countries – anxious to hold on to

the recurring opportunities for influence through the Presidency, and fearing an expansion of the room for power politics in the EU – the large member states managed to push through a reform in their strategic interest (Tallberg 2006: 225-226; Blavoukos et al. 2007).

Norms

A central effect of the growth in constructivist research on the EU since the mid-1990s is the increasing attention accorded to the role of norms in negotiation and decision-making (Checkel 2006). While this remains the home turf of constructivism, rationalist interpretations of norms have become increasingly common as well. In fact, few today dispute the fact that norms of appropriate behavior exist in the EU and constitute an important institutional dimension of its negotiation system. As Ole Elgström and Michael Smith (2000: 678) summarize in one volume on EU negotiations: “Because of the intensity, complexity and continuity of the negotiation process, and the permanent and evolutionary character of the negotiation system embodied in the EU, it is possible to argue that it also constitutes a complex and sophisticated negotiated order, resting not only on the material foundations of institutions and procedures, but also on a powerful set of normative and quasi-ideological understandings.” While the literature to date mainly has been preoccupied with the effects of norms on negotiation behavior, there are a set of contributions that have addressed the sources of norms, demonstrating the merits of drawing on sociological and rational institutionalist approaches. The norm of seeking consensus in the Council has received most extensive attention, with the norm that Presidencies should behave in an impartial way as a second example.

The puzzling pattern from which all research on the consensus norm in the EU departs is the fact that member governments, despite provisions for qualified majority voting, overwhelmingly take decisions by consensus. In 75 to 80 percent of all cases where decisions

could have been taken through voting, member states instead resort to consensus decision-making (Hayes-Renshaw et al 2006: 163). Scholars inspired by sociological institutionalism conceive of this pattern as a reflection of processes of socialization and norm internalization among decision-makers. The Council, in this view, constitutes a rich normative environment that works according to a culture of community, marked by diffuse reciprocity, thick trust, mutual responsiveness, a consensus-reflex, and a culture of compromise (Lewis 2000). Consensus decision-making is a product of a norm of appropriate behavior that prescribes accommodation of the interests of the minority and proscribes pushing for a vote. This norm has gained a taken-for-granted character, in that decision-makers no longer consider alternative courses of action. As summarized by Dorothee Heisenberg (2005: 68): “The EU’s ‘culture of consensus’ is the result of the 40-year history of negotiations among the same partners and the acculturation of new members to those norms. This means that the negotiations are structured in a framework where, because of the iterated nature of the negotiations, trust is very high and reputation matters a great deal.”

Yet this explanation of the consensus norm does not stand unchallenged. In fact, even sociological institutionalists revert to logics with a distinct rationalist flavor when seeking to explain the origin and stability of this norm. As Jeffrey Lewis concludes: “[M]ember states allow and even encourage deliberation and informal norms of appropriateness because they lead to desirable institutional arrangements and, ultimately, collective policy outcomes that everyone can live with” (Lewis 2008: 179). Similarly, Heisenberg (2005: 69) notes: “Bargaining between Member States can involve informal vote trading within the existing legislative agenda (‘log rolling’) or inter-temporal vote swapping because the number of interactions is so high and the reputation and trust conditions obtain. --- Thus consensus in this context is shorthand for ‘selling’ preferences that are not strongly held for advantages in other issue areas or in future negotiations (‘favor bank’).” This analysis is developed in a

recent rationalist account of norms in EU negotiations, where the deviation from formal rules is interpreted as an informal institution designed to facilitate decision-making through vote trading (Kleine 2008). This functionalist approach to norm development also informs the work of Adrienne Héritier (1999), who suggests that the EU decision-making system would have been stalled, had it not been for the existence of creative informal strategies designed to facilitate cooperation, among them diffuse reciprocity in the Council.

Another norm often referred to by policy-makers and scholars is the prescription that Presidencies should be neutral and impartial. According to this norm, governments at the helm should abstain from exploiting the power resources of the chairmanship for national gain. Rather than place pet proposals on the agenda or promote compromises that benefit their own interests, Presidencies should act as “honest brokers.” While the extent to which this norm actually constrains member governments is a matter of dispute (Elgström 2003; Tallberg 2006), the presence of it in the Brussels political environment is not. In fact, it is sufficiently institutionalized to appear as a recommendation in the Council Secretariat’s (1997) handbook for incoming Presidencies.

Still, students of EU negotiations have been slow to explore the origins of this norm, which is a topic that merits more systematic attention from both sociological and rational institutionalists. The general literature on the chairmanship suggests that the norm of neutrality or impartiality is not specific to the EU, and thus not necessarily an artifact of rotation and a dense social context, though probably reinforced by these conditions. Rather, it appears to constitute a behavioral prescription woven into the chairmanship as an institutional model. In this vein, one contribution to the general literature emphasizes: “The only expectation a presiding officer should always strive to fulfill is that of impartiality and fairness” (Lang 1989:33). Rational choice institutionalism, for its part, is particularly well positioned to explore the role of efficiency concerns in the emergence of this norm. From a

functionalist perspective, this norm may be explained by its capacity to facilitate negotiations, for instance, by encouraging governments at the helm to sacrifice national interests that stand in the way of agreement. However, evidence that member states systematically use the office of the chair for national purposes rather indicates that the conception of the neutral Presidency constitutes a case of “organized hypocrisy” – a norm that governments routinely pay lip service to, while allowing their behavior to be guided by other concerns.

Conclusion

In this paper, I have sought to demonstrate the merits of drawing on general theories of institutional design for purposes of explaining the creation, evolution, and shape of the institutions governing EU negotiations. While students of bargaining and decision-making in the EU routinely assume that institutions matter for outcomes, they have so far done little to systematically explore the sources of these organizations, procedures, and norms. This paper is a call for such research.

I will conclude by making two broader points about the implications of this argument. First, in its message, this paper joins a set of contributions that advocate closer attention in EU studies to the scope for theoretical dialogue between alternative strands of institutional theory (Aspinwall and Schneider 2001; Jupille et al. 2003). As the inventory of empirical research in this paper suggests, rational choice institutionalism, sociological institutionalism, and realism not only offer theoretical tools for making sense of the institutions of EU negotiations, but also demonstrate important complementarities. For instance, all three approaches are potentially helpful in explaining different parts of the design of the Council and the European Council, which suggests the appropriateness of a domain-of-application approach to theoretical dialogue.

Second, the design of negotiation institutions constitutes an area where research on EU politics can contribute to theory development and refinement in the study of international cooperation. As a densely institutionalized system of politics, the EU constitutes an excellent context for assessing the viability of existing hypotheses and developing new ones on international institutional design. The scope for exporting theory to the general literature on international negotiations is extensive, as institutional design is an issue that so far has been neglected, according to recent overviews of the field (Jönsson 2002; Odell 2009).

References

- Abbott, K. W. and Snidal, D. (2000) 'Hard and Soft Law in International Governance,' *International Organization* 54 (3): 421-456.
- Aspinwall, M. and Schneider, G. (2001) *The Rules of Integration: Institutionalist Approaches to the Study of Europe*, Manchester: Manchester University Press.
- Bailer, S. (2004) 'Bargaining Success in the European Union,' *European Union Politics* 5 (1): 99-123.
- Barnett, M. N. and Finnemore, M. (2004) *Rules for the World: International Organizations in Global Politics*, Ithaca: Cornell University Press.
- Beach, D. and Mazzucelli, C. (eds.) (2007) *Leadership in the Big Bangs of European Integration*, Basingstoke: Palgrave Macmillan.
- Beach, D. (2008) 'The Facilitator of Efficient Negotiations in the Council: The Impact of the Council Secretariat,' in D. Naurin and H. Wallace (eds.) *Unveiling the Council of the European Union: Games Governments Play in Brussels*, Basingstoke: Palgrave Macmillan.
- Blavoukos, S., Bourantonis, D. and Pagoulatos, G. (2007) 'A President for the European Union: A New Actor in Town?' *Journal of Common Market Studies* 45 (2): 231-252.

- Boli, J. and Thomas, G. M. (eds.) *Constructing World Culture. International Nongovernmental Organizations since 1875*, Stanford, CA: Stanford University Press.
- Bulmer, S. and Wessels, W. (1987) *The European Council: Decision-Making in European Politics*, Houndmills: Macmillan.
- Checkel, J. (2006) 'Constructivism and EU Politics,' in K. E. Jørgensen, M. A. Pollack, and B. Rosamond (eds.) *Handbook of European Union Politics*, London: SAGE.
- Council Secretariat (1997) *Council Guide. 1. Presidency Handbook*, Luxembourg: Office for Official Publications of the European Communities.
- Drezner, D. W. (2007) *All Politics Is Global: Explaining International Regulatory Regimes*, Princeton: Princeton University Press.
- Elgström, O. (2003) "'The Honest Broker'?: The Council Presidency as a Mediator.' In O. Elgström (ed.) *European Union Council Presidencies: A Comparative Perspective*, London: Routledge.
- Elgström, O. and Smith, M. (2000) 'Introduction: Negotiation and Policy-Making in the European Union – Processes, Systems and Order,' *Journal of European Public Policy* 7 (5): 673-683.
- Elgström, O. and Jönsson, C. (2000) 'Negotiation in the European Union: Bargaining or Problem-Solving?,' *Journal of European Public Policy* 7 (5): 684-704.
- Elgström, O. and Jönsson, C. (eds.) (2005) *European Union Negotiations: Processes, Networks, and Institutions*, London: Routledge.
- Elgström, O. and Smith, M. (eds.) (2000) 'Negotiation and Policy-Making in the European Union,' special issue of *Journal of European Public Policy* 7 (5).
- Gruber, L. (2000) *Ruling the World: Power Politics and the Rise of Supranational Institutions*, Princeton: Princeton University Press.

- Hamlet, L. (2002) 'Resolving Collective Action Problems and Preventing Agency Losses: How States Design the Secretariats of International Organizations.' Paper prepared for the Workshop on World Politics, University of Michigan, April 19, 2002.
- Hawkins, D. G., Lake, D. A., Nielson, D. L. and Tierney, M. J. (eds.) (2006) *Delegation and Agency in International Organizations*, Cambridge: Cambridge University Press.
- Hayes-Renshaw, F. and Wallace, H. (2006) *The Council of Ministers*. 2nd edition, Basingstoke: Palgrave Macmillan.
- Hayes-Renshaw, F., van Aken, W. and Wallace, H. (2006) 'When and Why the EU Council of Ministers Votes Explicitly,' *Journal of Common Market Studies* 44 (1): 161-194.
- Heisenberg, D. (2005) 'The Institution of "Consensus" in the European Union: Formal versus Informal Decision-Making in the Council,' *European Journal of Political Research* 44: 65-90.
- Héritier, A. (1999) *Policy-Making and Diversity in Europe. Escape from Deadlock*, Cambridge: Cambridge University Press.
- Héritier, A. (2007) *Explaining Institutional Change in Europe*, Oxford: Oxford University Press.
- Jupille, J., Caporaso, J. A. and Checkel, J. T. (2003) 'Integrating Institutions: Rationalism, Constructivism, and the Study of the European Union,' *Comparative Political Studies* 36 (1-2): 7-40.
- Jönsson, C. (2002) 'Diplomacy, Bargaining and Negotiation,' in W. Carlsnaes, T. Risse and B. A. Simmons (eds.) *Handbook of International Relations*, London: SAGE.
- Keohane, R. O. (1984) *After Hegemony: Cooperation and Discord in the World Political Economy*, Princeton: Princeton University Press.
- Kirchner, E. (1992) *Decision-Making in the European Community. The Council Presidency and European Integration*, Manchester: Manchester University Press.

- Kleine, M. (2008) 'All Roads Lead away from Rome? A Theory of Institutions in (European) Decision Making,' paper presented at the ECPR Joint Sessions in Rennes, April 11-15, 2008.
- Koremenos, B., Lipson, C. and Snidal, D. (2001) 'The Rational Design of International Institutions,' *International Organization* 55 (4): 761-799.
- Krasner, S. D. (1991) 'Global Communications and National Power: Life on the Pareto Frontier,' *World Politics* 43 (3): 336-356.
- Lang, W. (1989) 'Multilateral Negotiations: The Role of Presiding Officers,' in F. Mautner-Markhof (ed.) *Processes in International Negotiations*, Boulder, Colo.: Westview Press.
- Laursen, F. (ed.) (2002) *The Amsterdam Treaty. National Preference Formation, Interstate Bargaining and Outcome*, Odense: Odense University Press.
- Lewis, J. (2000) 'The Methods of Community in EU Decision-Making and Administrative Rivalry in the Council's Infrastructure,' *Journal of European Public Policy* 7(2): 261-289.
- Lewis, J. (2005) 'The Janus Face of Brussels: Socialization and Everyday Decision Making in the European Union,' *International Organization* 59 (4): 937-971.
- Lewis, J. (2008) 'Strategic Bargaining, Norms and Deliberation,' D. Naurin and H. Wallace (eds.) *Unveiling the Council of the European Union: Games Governments Play in Brussels*, Basingstoke: Palgrave Macmillan.
- March, J. G. and Olsen, J. P. (1989) *Rediscovering Institutions: The Organizational Basis of Politics*, New York, NY: Free Press.
- Martin, L. L. (1992) 'Interests, Power, and Multilateralism,' *International Organization* 46 (4): 765-792.
- McNamara, K. R. (2002) 'Rational Fictions: Central Bank Independence and the Social Logic of Delegation,' *West European Politics* 25 (1): 47-76.

- Mearsheimer, J. J. (1994/95) 'The False Promise of International Institutions,' *International Security* 19 (3): 5-49.
- Meerts, P. and Cede, F. (eds.) (2004) *Negotiating European Union*, Basingstoke: Palgrave Macmillan.
- Metcalfe, D. (1998) 'Leadership in European Union Negotiations: The Presidency of the Council,' *International Negotiation* 3 (3): 413-434.
- Meunier, S. (2005) *Trading Voices. The European Union in International Commercial Negotiations*, Princeton, N.J.: Princeton University Press.
- Moravcsik, A. (1998) *The Choice for Europe: Social Purpose and State Power from Messina to Maastricht*, Ithaca, N.Y.: Cornell University Press.
- Moravcsik, A. and Nicolaïdis, K. (1999) 'Explaining the Amsterdam Treaty: Interests, Influence, Institutions,' *Journal of Common Market Studies* 37 (1): 59-85.
- Naurin, D. and Lindahl, R. (2008) 'East-North-South: Coalition-Building in the Council before and after Enlargement,' in D. Naurin and H. Wallace (eds.) *Unveiling the Council of the European Union: Games Governments Play in Brussels*, Basingstoke: Palgrave Macmillan.
- Naurin, D. and Wallace, H. (eds.) (2008) *Unveiling the Council of the European Union: Games Governments Play in Brussels*, Basingstoke: Palgrave Macmillan.
- Odell, J. (2009) 'Three Islands of Knowledge about Negotiation in International Organizations,' paper prepared for the workshop Negotiation Theory and the EU: The State of the Art, Dublin, November 2008.
- Parsons, C. (2003) *A Certain Idea of Europe*, Ithaca, NY: Cornell University Press.
- Pedersen, T. (1998) *Germany, France and the Integration of Europe*, London: Continuum.
- Pollack, M. (2003) *The Engines of Integration: Delegation, Agency, and Agenda Setting in the EU*, Oxford: Oxford University Press.

- Powell, W. W. and DiMaggio, P. J. (eds.) *The New Institutionalism in Organizational Analysis*, Chicago, Ill.: University of Chicago Press.
- Rittberger, B. (2001) 'Which Institutions for Post-War Europe? Explaining the Institutional Design of Europe's First Community,' *Journal of European Public Policy* 8 (5): 673-708.
- Rittberger, B. (2005) *Building Europe's Parliament: Democratic Representation Beyond the Nation-State*, Oxford: Oxford University Press.
- Ruggie, J. G. (1983) 'International Regimes, Transactions, and Change: Embedded Liberalism in the Postwar Economic Order,' in S. D. Krasner (ed.) *International Regimes*, Ithaca, NY: Cornell University Press.
- Schoutete, P. de (2006) 'The European Council,' in J. Peterson, and M. Shackleton (eds.) *The Institutions of the European Union* (Oxford: Oxford University Press).
- Simmons, B. A. and Martin, L. L. (2002) 'International Organizations and Institutions,' in W. Carlsnaes, T. Risse and B. A. Simmons (eds.) *Handbook of International Relations*, London: Sage.
- Tallberg, J. (2002) 'Delegation to Supranational Institutions: Why, How, and with What Consequences?,' *West European Politics* 25 (1): 23-46.
- Tallberg, J. (2006), *Leadership and Negotiation in the European Union*, Cambridge: Cambridge University Press.
- Tallberg, J. (2008) 'Bargaining Power in the European Council,' *Journal of Common Market Studies* 46 (3): 685-708.
- Tallberg, J. and Johansson, K. M. (2008) 'Party Politics in the European Council,' *Journal of European Public Policy* 15 (8): 1222-1242.
- Thomson, R., Stokman, F. N., Achen, C. H. and König, T. (eds.) (2006) *The European Union Decides*, Cambridge: Cambridge University Press.

- Waltz, K. N. (1979) *Theory of International Politics*, Reading, MA: Addison-Wesley.
- Warntjen, A. (2007) 'Steering the Union: The Impact of the EU Presidency on Legislative Activity in the Council,' *Journal of Common Market Studies* 45 (5): 1135-1157.
- Weingast, B. R. and Marshall, W. J. (1988) 'The Industrial Organization of Congress; or, Why Legislatures, Like Firms, Are Not Organized as Markets,' *Journal of Political Economy* 96 (1): 132-163.
- Westlake, M. and Galloway, D. (2004) *The Council of the European Union*. 3rd edition, London: John Harper Publishing.
- Williamson, O. E. (1975) *Markets and Hierarchies: Analysis and Antitrust Implications*, New York, NY: Free Press.
- Zimmer, C., Schneider, G. and Dobbins, M. (2005) 'The Contested Council: Conflict Dimensions of an Intergovernmental EU Institution,' *Political Studies* 53: 403-422.