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## SEQUENCING AND PATH DEPENDENCE IN EUROPEAN INTEGRATION

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This paper surveys and evaluates some recent trends in the historiographical and political science literatures on sequencing and path dependence in the process of European integration. It draws four main conclusions: (1) A theoretical synthesis of endogenous policy theory, non-coercive interstate bargaining theory, and international regime theory provides a plausible account of European integration. (2) There is substantial historical evidence in favor of this synthetic explanation, as opposed to explanations stressing geopolitical or ideological factors, international mediation and political entrepreneurship. (3) These theories suggest a modest role for sequencing, particular as regards the impact of the order in which successive countries enter the EU. (3) Efforts have long been made to advance theories, generally referred to as “historical institutionalist” or “neo-functionalism” that treat sequencing as a more important variable—notably those that argue that integration is fundamentally “path dependent”—but little historical evidence supports such claims. (5) Currently the process of European integration appears to have reached an institutional plateau. There is now in place a “European Constitutional Compromise,” about which theories in which sequencing plays a critical role give us little purchase.

### I. WHAT DRIVES INTEGRATION? A NEW SYNTHESIS

Over the past decade, a widely-accepted synthetic explanation has emerged in the historiographical and political science literatures seeking to explain the process of European integration. This theoretical synthesis focuses on the major treaty-amending steps taken forward in the process of European integration: the negotiation of the Treaty of Rome signed in 1957, the consolidation of the customs union and Common Agricultural Policy (CAP) during the 1960s, the establishment of the European Monetary System (EMS) in 1978-79, the negotiation of the Single European Act (SEA) in 1985-86, and the Maastricht Treaty on European Union signed in 1991. The synthesis draws on endogenous policy theory, interstate bargaining theory, and international regime theory—three bodies of general theory (of political economy, bargaining and delegation, respectively) now standard in political science.

In this view, the primary impetus for integration has been a series of exogenous functional challenges. These include intra-industry trade in the 1950s and 1960s, monetary fluctuations and capital mobility in the 1970s and 1980s, greater foreign direct investment and regulatory conflict in the 1980s, and the collapse of Communism in the 1990s.

Governments negotiated agreements on this basis, with the entrepreneurship and influence of supranational officials playing an epiphenomenal role. They delegated to international institutions in what was largely an instrumental way, aimed at enhancing the credibility of commitments. This section elaborates this synthetic account, starting with the framework of analysis in which it is embedded.

### A. A Framework of Analysis

The tripartite theoretical synthesis seeks to explain the collective decisions of national governments with regard to regional integration in Europe by treating states as (“boundedly”) rational actors responding to external incentives. In this general class of models of international decision-making, individual states first formulate preferences, then engage in interstate bargaining, and finally decide whether and how to delegate or pool sovereignty in international institutions to extend, implement, or enforce those bargains.<sup>1</sup> Each element in the chain is explained separately, with each feeding into the successive step. Within each stage, a narrower theoretical claim stresses respectively the constraints and opportunities imposed by international economic interdependence, the relative bargaining power created by asymmetrical policy interdependence, and the potential of international institutions to bolster the credibility of interstate commitments. Here we will focus on the first two stages: national preference formation and interstate bargaining.

**Table 1.1. International cooperation: A rationalist framework**

Stages of Negotiation	National Preference Formation	Interstate Bargaining	Institutional Choice
<b>Alternative independent variables underlying each stage</b>	What is the source of underlying national preferences?	Given national preferences, what explains the efficiency and distributional outcomes of interstate bargaining?	Given substantive agreement, what explains the transfer of sovereignty to international institutions?
	Economic interests or Geopolitical interests?	Asymmetrical interdependence or Supranational entrepreneurship?	Federalist ideology or Centralized technocratic management or More credible commitment?
<b>Observed outcomes at each stage</b>	Underlying national preferences	Agreements on substance	Choice to delegate or pool decision-making in international institutions

<sup>1</sup> David Lake and Robert Powell, *Strategic Choice and International Relations* (Princeton: Princeton University Press, 2000); Andrew Moravcsik, “Taking Preferences Seriously: A Liberal Theory of International Politics,” *International Organization* (Autumn 1997).

## A. National Preferences: The Preeminence of Commercial Incentives

What factors shape the state preference concerning regional economic integration? Until about ten years ago, the bulk of the existing literature claimed that the EC was founded primarily to address real and perceived geopolitical threats or realize federalist ideas.<sup>2</sup> The essence of geopolitical explanations for national preferences concerning economic cooperation lies in the linkage between economic policies and underlying politico-military goals. The focus is on indirect consequences of economic integration, termed by Joanne Gowa and others "security externalities."<sup>3</sup> Economic integration is not an end in itself, but a means to manipulate "high politics." The goals of high politics may be objective, such as defense against an overt military threat to territorial integrity and political sovereignty, or subjective, as when a threat to territory or sovereignty is perceived as an affront to national identity. Whatever the security externalities, the core of the argument remains the same: governments are more likely to cooperate economically with those states with which they are "allied" in pursuit of a particular geopolitical goal. This theory seems plausible because the international system is believed to be an anarchic and potentially dangerous place; hence threats to security and sovereignty remain at the top of a hierarchy of state motives, even when negotiating the price of wheat or the size of truck taillights. Studies of trade liberalization and monetary unions have concluded that geopolitical factors—a common security threat, shared interest in diffusing conflict, a "sense of solidarity"—are often decisive.<sup>4</sup>

The central prediction of this approach is that when economic integration is perceived to generate positive geopolitical externalities, governments tend to favor integration; whereas when integration is perceived to generate negative geopolitical consequences, they are more likely to oppose it. Within this broad approach, there remains considerable disagreement on the precise theoretical relationship between security threats and economic cooperation.

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<sup>2</sup> This historiographical tendency is even stronger in the various essential episodes stressed in particular, including the British rejection of European membership in the 1950s, the French rejection of British membership in 1963, the Maastricht treaty committing to Economic and Monetary Union.

<sup>3</sup> Gowa, Joanne, *Allies, Adversaries and International Trade*, Princeton, Princeton, 1994; Joseph M. Grieco, *Cooperation among Nations: Europe, America and Non-Tariff Barriers to Trade* (Ithaca: Cornell University Press, 1990). Analyses of the 1950s stress British Prime Minister Harold Macmillan's visceral antifederalism and his concern to maintain the Anglo-American "special relationship," the desire of German Chancellor Konrad Adenauer to integrate Germany into the West, and the geopolitical lessons drawn by French President Guy Mollet from Suez. Similarly, the 1960s are traditionally portrayed as a clash between two grand ideological alternatives symbolized by Charles de Gaulle and Jean Monnet—one stressing a geopolitical strategy grounded in nationalism, the other a view akin to collective security. European cooperation in the 1970s is generally seen as a by-product of Willy Brandt's *Ostpolitik*, Georges Pompidou's desire to restrain Germany and, later in the decade, Helmut Schmidt and Valéry Giscard d'Estaing's suspicion of Jimmy Carter's foreign policy. The Single European Act of 1986 and the Maastricht Treaty on European Union five years later are often seen as a triumph of the personal federalist commitment of Helmut Kohl and François Mitterrand over the idiosyncratic ideological opposition of Margaret Thatcher. Others point to Maastricht as the result of a concern to lock a newly reunified Germany into Europe.

<sup>4</sup> Benjamin J. Cohen, "Beyond EMU: The Problem of Sustainability," *Economics and Politics* 5:2 (1993): 187-203; Daniel Verdier, *Democracy and International Trade* (Princeton: Princeton University Press, 1994), Chapter 1.

Plausible geopolitical explanations of European integration fall into four theoretical categories. Each stresses the need to respond to a particular geopolitical threat by manipulating the security externalities of economic integration, but the precise nature of the threat and response vary. Such explanations emphasize, respectively, responses to the Soviet threat, perceptions of global prestige and position, collective security *vis-à-vis* Germany and European federalist ideology.

The most recent literature embodying the synthetic approach focused instead on the immediate substantive benefits of specific economic policy. Consistent with modern theories of foreign economic policy, view is that the specific conditions under which governments were willing to liberalize trade reflected their international economic competitiveness. When such interests converged, integration advanced. The fact that economic interests did consistently converge reflected fundamental trends in postwar international political economy—in particular a 50-year boom in trade and investment among industrialized countries, which was linked to a shift from trade with developing countries to trade among advanced industrial democracies. The resulting expansion of regional intra-industry trade both predated the EC and induced policy changes regardless of whether the countries in question were members of the EC. Similarly, in the 1970s and 1980s, rising capital mobility undermined the autonomy of national macroeconomic policies, creating greater pressures for monetary cooperation. At its core, the Synthesis view argues, European integration has been dictated by the need to adapt to these trends in the technology and domestic economic policy through policy coordination.

This explanation is firmly in the tradition of endogenous tariff theory, in the sense that it treats a free trade area as an endogenous variable, as Lawrence puts it “a response to, rather than a source of, large trade flows,” and one which governments are more likely to pursue if “the benefits outweigh the costs.”<sup>5</sup> Most of the phenomenon can be captured by a very simple model, such as that proposed by Becker and Peltzman, in which governments promote the interests of powerful producer within broad constraints set by more general, electorally-mediated, demands for regulatory protection, economic efficiency, and fiscal responsibility.<sup>6</sup> Domestic policies favoring producers are constrained either by the government’s fiscal limitations or by conflict with general regulatory objectives. In its simplest form, foreign economic policy-making promotes commercial interests until confronted with an intolerable fiscal burden or a conflict with regulatory problems strong enough to challenge the basic domestic consensus on taxation and regulation. The decision

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<sup>5</sup> Robert Lawrence (1998), cited in Scott L. Baier and Jeffrey H Bergstrand, “Economic Determinants of Free Trade Agreements,” *Journal of International Economics* 64 (2004) 29–63. The major difference between this study and that of Baier and Bergstrand concerns the treatment of factor endowments, which they treat (rightly) with some ambivalence. A sector analysis is required here. In many branches of industrial trade, post-war intra-industry trade appears to have promoted trade liberalization, while in many branches of agricultural trade in agricultural products was possible only where differences in opportunities for production (some driven by factor endowments) were so great as to rule out production by one partner. The CAP, as a subsidized free trade system, was designed to deal with this exceptional but important case.

<sup>6</sup> In recent years a synthesis has emerged, in which both rent-seeking pressures and efficiency concern play a role in the rational calculations of policy-makers. Gary S. Becker, “A Theory of Competition among Pressure Groups,” *Quarterly Journal of Economics* 98 (1983): 372-399; Samuel Peltzman, “The Economic Theory of Regulation after a Decade of Deregulation,” *Brookings Papers on Economic Activity* (1989): 1-41; Giandomenico Majone, *Regulating Europe* (London: Routledge, 1996), 28-45.

to cooperate should thus be preceded by pressure from domestic producers and/or the overt failure of unilateral policies to achieve domestic regulatory or fiscal objectives. In the political economy view, a combination of competitiveness concerns and policy failure are the catalysts of cooperation.

While the relative importance of regulatory and fiscal constraints *vis-à-vis* commercial considerations varies across issues, we can simplify by assuming that their relative importance in EC politics parallels their relative importance in domestic politics. Governments committed to the pursuit of a particular balance between, say, economic liberalism and environmental protection, at home will seek to pursue the same balance internationally. State preferences with regard to these things are taken as exogenous, at least in the short term, and arrangements for regional cooperation are endogenous.

The four policies at the core of European economic integration have been agricultural support, industrial trade liberalization, regulatory coordination, and exchange-rate policy. There is general agreement that in postwar European domestic politics, the direct power of producers *vis-à-vis* fiscal or regulatory concerns has been strongest in agriculture, which has won large and nearly universal subsidies in every country and less strong in industrial trade policy, where subsidies are more modest and uneven. It has been more balanced in regulatory policy areas such as environmental policy, where independent preferences for regulatory goals play an important independent role to balance producer interests, and in exchange-rate policy, where preferences for high- or lower-inflation embedded in domestic labor and fiscal practices have played a decisive role in national policy formation. We can, then, assume the same spectrum when governments choose EC policies. In the case of agricultural and industrial trade policy, producers tend to be highly mobilized and governments are limited primarily by overall economic efficiency, which is reflected in the fiscal burden of subsidization. In regulatory policy, governments are slightly more constrained by public policy goals, which can be summarized by dividing EC members into rich countries with high standards and poorer countries with lower standards. In the case of monetary policy, finally, producer preferences are less sharply defined, while the constraints imposed by the general macroeconomic preferences and performance of different countries are more important.

In response to these constraints and opportunities, governments tended to be heavily influenced by the commercial interests of domestic producer groups, which in turn reflected their respective position in the global market. This created, according to the theory, strong incentives to liberalize but also differences about how far and in what areas to do so. We would expect, moreover, that purely commercial motivations would be combined, particularly in the cases of regulatory harmonization and monetary policy, with economic motivations involving the provision of domestic public goods, notably regulatory protection and macroeconomic stability.

The historiography in question provides substantial evidence in favor of this proposition.<sup>7</sup> One study, on which this paper relies, examines German, French, and British preferences concerning the most important policy involved in each agreement—fifteen positions in all—and finds that in every case the preponderance of evidence confirms the

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<sup>7</sup> Alan S. Milward, *The European Rescue of the Nation-State* (London, Routledge, 1994)

greater influence of political economic motivations over geopolitical interest or ideology.<sup>8</sup> Here we shall simply summarize some of the different types of evidence that point to this conclusion.

In eight of fifteen cases, there exists essentially no hard primary evidence that geopolitical ideas or interests served as more than *ex post* public justifications for national positions. In the remaining seven cases—Germany and France in the Treaty of Rome negotiations, Germany during the 1960s, France during discussions of the SEA, and all three countries in the Maastricht negotiations—the historical record suggests that geopolitical ideology may have played a secondary or parallel role. In only four of those eight cases—Germany in the Treaty of Rome and the 1960s, and both France and Germany in the Maastricht negotiations—is there evidence that geopolitical considerations may significantly have altered final agreements on economic matters. And in only in the case of Germany—specifically in the Treaty of Rome, the 1960s, and perhaps the Maastricht negotiations—does the preponderance of evidence suggest that geopolitical motivations actually altered the national position. To summarize, in twelve (or thirteen) out of fifteen core national positions, political economic concerns appear sufficient to explain national motivations; in all fifteen the predominant influence on national preferences was economic.

Moreover, this study concludes that preferences varied across issues in ways political economic theory predicts, rather than simply across countries, as geopolitical theory would lead us to expect. Whether we examine the customs union and monetary cooperation or secondary, often stillborn, policies in areas such as transport, atomic energy, external tariff policy, industrial and R&D policy, or social policy, cross-issue variation in national positions consistently mirrored competitiveness in global markets, macroeconomic preferences, and regulatory commitments. The strongest support for tariff liberalization, for example, came consistently from business in relatively competitive countries: Germany and Britain sought industrial liberalization but were cautious about liberalizing agriculture; the French position was the obverse. Even in the SEA, regulatory competitiveness remained the decisive concern—France placed special emphasis on a reduction of regulatory barriers on food products, Britain pressed for service deregulation, and Germany sought general reduction in industrial trade barriers.

Important changes in the priorities, policies, and preferences of national governments appear to have reflected shifts in the domestic and international economic environment. Examples include the strong positive impact of French devaluation in 1958 on business support for liberalization, the rapid British response to economic exclusion from the EEC in the early 1960s, and the response to global trends toward liberalization of service provision in the 1980s. Sustainable monetary initiatives emerging in times of macroeconomic convergence and dollar depreciation, as was the case just prior to each oil crisis and again in the late 1980s, the effects of the two being difficult to separate. By contrast, important geopolitical events—the Suez crisis of 1956, the founding of the French Fifth Republic in

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<sup>8</sup> Andrew Moravcsik, *The Choice for Europe: Social Purpose and State Power from Messina to Maastricht* (Ithaca, Cornell University Press, 1998).

1958, the collapse of the Fouchet Plan negotiations in 1962, the Anglo-American agreement at Nassau in 1963, the abandonment of the US proposal for a Multilateral Force shortly thereafter, the launching of Ostpolitik in the late 1960s, the rise and fall of détente with the Soviet Union in the 1970s, and German unification in the 1980s, do not seem to have induced the shifts in national preferences predicted by geopolitical theories.<sup>9</sup>

National negotiating tactics—the major demands and counter-demands—tended to be economic in nature. Negotiations over agriculture and trade focused on the economic demands and counter-demands concerning the levels of external tariffs, levies, and the sectoral scope of the arrangement. Monetary negotiations focused consistently on to extent to which the macroeconomic performance of potential members had converged, and the extent to which creditor and debtor countries governments would be obliged to converge further. Geopolitical concerns were consistently sacrificed to economic interests—as, for example, when Britain and Gaullist France repeatedly accepted federal institutions to achieve economic objectives. By contrast, there were fewer attempts of explicit quid pro quos involving economic concessions aimed at achieving explicit geopolitical objectives. It is particularly striking that statesmen known for their geopolitical focus, for example de Gaulle or Adenauer, do not appear ever to have done so. British prime ministers in particular repeatedly threatened geopolitically self-destructive actions, usually involving the British commitment to NATO, in an effort to extract economic concessions from their Continental counterparts.

Patterns of domestic cleavages and salient concerns in domestic deliberations provide further support for the economic rather than geopolitical incentives. Cleavages formed consistently along economic lines and salient arguments tended to be economic, particularly in confidential discussions. In not a single case did governments take a position on a major issue—industrial trade liberalization, agricultural cooperation, and monetary cooperation—openly opposed by a major peak industrial, financial, or agricultural interest group.<sup>10</sup> Business consistently split internally, as predicted, according to the relative competitiveness of sectors and firms. By contrast, by the time of the Treaty of Rome

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<sup>9</sup> EC policies were at least as consistent with positions in other international economic forums than in international security forums. French, British, and German EC trade, agricultural, monetary, and regulatory policies were in most cases consistent with their unilateral, bilateral, and global multilateral policies with regard to these same substantive issues. Hence the Single European Act came into being only after considerable unilateral liberalization, bilateral Franco-German discussions, the regional Schengen Agreement, and negotiations in the GATT Tokyo Round on NTBs. Germany simultaneously launched a monetary initiative in the G-7 when advocating EMS; France did the same when launching EMU. Only one important exception exists: Germany's aggressive liberalism in GATT tariff negotiations of the 1950s and 1960s and its protectionism concerning agriculture were not mirrored precisely in its position toward the EC customs union—though in the end Germany managed to achieve goals in both organizations.

<sup>10</sup> Only two cases involve a difficult interpretive judgment. One is Germany during the 1960s. Farm groups opposed the lowering of German wheat prices, yet the side payment—including higher prices on dairy products, direct subsidies, export opportunities, and Monetary Compensation Accounts a few years later—more than offset this disadvantage. Surely this cannot be seen as a defeat for German farmers. The other is Germany during the 1990s. Business had mixed opinions about the general notion of Economic and Monetary Union (EMU), with skeptical voices perhaps predominant. Again, however, Germany extracted side payments and business (and Bundesbank) opinion supported the government. The institutional design of EMU was, for this reason, based on the German model of an extremely independent central bank with a strong anti-inflationary mandate.

negotiations and consistently thereafter, debates over controversial political-military issues such as the European Defense Community, German NATO membership, the repatriation of the Saar, rapid German reunification, and the French nuclear program were resolved and many argued that European integration no longer had decisive geopolitical implications. This unblocked ideological opposition to integration that had formerly united French Gaullists, German Social Democrats and British Conservatives in opposition to the EDC. Economic considerations—the promotion of industrial modernization in France, export success in Germany, and the inevitable shift from Commonwealth to Continental trade in Britain—continued to be the most important determinant of the positions of key domestic groups on integration through the 1960s. In monetary negotiations from the EMS to EMU, domestic coalitions similarly formed around economic considerations: the economic demands of business groups, the concerns of central banks, and the macroeconomic priorities of governing political parties.

Even in exceptional cases where geopolitical motivations appear to have played an important role—Adenauer's particular tendency to favor France, de Gaulle's views on supranational institutions, Thatcher's opposition to British participation in the EMS—the concerns of economic interest groups pleased tight constraints on national policy. Repeatedly we see leaders privileging economic over geopolitical concerns: de Gaulle considering "agricultural modernization" with the assistance of the EEC as his most important national goal; Macmillan overcoming Foreign Office objections with the argument that Britain "lives and dies by exports"; and Adenauer was unable to impose Euratom on the recalcitrant German nuclear industry. In the 1970s, there is little evidence to suggest that Schmidt and Giscard were thinking in terms of geopolitical ideology when they proposed monetary integration, or that European leaders were primarily concerned with geopolitics during the reforms of the 1980s. Nor does the record support the supposition that the move to EMU, which was decisively underway by late 1988, was bolstered in any important way by German reunification—despite popular mythology to the contrary.

The relative power of producer groups *vis-à-vis* more general economic concerns varied across policies, as the political economic theory predicts, with the preference intensity and power of producer groups. EC policy was, in this regard, a continuation of domestic politics by different means. Where producers were particularly strong and governments had traditionally been forced to provide subsidies, governments were forced to provide for even weak producers. Where producers were weaker, governments could force more economic adjustment upon them. The strongest were consistently farmers, whose post-war dominance was evident from their success, even before the EC, in extracting unilateral domestic subsidies in every country. Even relatively uncompetitive producers were well-served. Producer views were slightly less dominant in industrial tariff liberalization, where governments played more and less competitive producers off against one another. When regulatory and non-tariff barriers came onto the agenda, significant regulatory concerns balanced producer influence. We observe relatively wealthy countries defending high standards through harmonization and safeguards, whereas poorer countries, in this regard Britain was quite typical, sought more unconditional liberalization. Finally, in monetary negotiations over the EMS and the EMU, producer groups were balanced by strong national macroeconomic ideas and institutions. Hence the relative positions of strong- and weak-currency countries, which incorporated both commercial concerns and the views of governments and central banks, proved critical in shaping national preferences.

Yet we should not neglect geopolitical interests and ideas altogether. Over the past forty years their impact on European integration, while clearly secondary, has nonetheless been significant. If the 50-year postwar boom in trade and investment among industrialized nations rendered a measure of trade liberalization, regulatory harmonization, and monetary stabilization inevitable, it is nonetheless likely that the EC would have evolved in a slightly different direction absent a parallel set of geopolitical preferences for and against European integration. The likely outcome without the impact of geopolitical concerns would have been a trade arrangement closer to the free trade area (FTA) repeatedly proposed by Britain, backed by a series of bilateral and global multilateral trade and investment agreements. Such an arrangement would likely have enticed Britain to participate even earlier and, as a result, would have permitted—as the French always rightly feared—no more than *ad hoc* bilateral arrangements for agriculture. This alternative was favored by German business groups and by Ludwig Erhard, first as Economics Minister and then as Chancellor. An FTA would likely have evolved toward consideration of NTBs, as did GATT and various European standards bodies during the 1970s and 1980s; toward reduction of customs formalities, as did the *ad hoc* Schengen arrangement before the SEA; and toward service liberalization, as reflected in the unilateral policies of nearly all European governments, whether inside or outside the EC. Yet such policies—conducted on a bilateral, unilateral, or “flexible” basis, as occurred among non-EC European countries during this period—would likely have remained uneven, uncoordinated and decentralized. Similarly, while monetary cooperation along the lines of the EMS would have been a likely response to the collapse of Bretton Woods and policy convergence after the two oil shocks, it is difficult to imagine a more *ad hoc* arrangement evolving in the direction of EMU or arranging the sort of financial side payments required to integrate countries like Spain, Portugal, and Greece into Europe.

We can learn more about the role of geopolitical concerns emerge by examining the pattern of national preferences across five cases. First, as the political economic itself theory predicts, geopolitical factors consistently tended to matter most where the costs and benefits of cooperation were uncertain, balanced, or weak. Adenauer exploited for geopolitical purposes the support of German business for both a free trade area and a customs union, whereas he was unable to overcome the outright opposition of business to atomic energy cooperation. De Gaulle pursued his geopolitical goals within the constraints set by the economic demands of producer groups, but where the two clashed—as in the “empty chair” crisis, the creation of supranational institutions for agriculture, and the Fouchet Plan—economic concerns dominated.<sup>11</sup> Kohl was able to achieve EMU, in large part a geopolitical goal, only by working within constraints set by the compromise between business and the Bundesbank. General uncertainty about the consequences of EMU may also have assisted him, like Mitterrand, in maneuvering toward Maastricht. Geopolitical considerations tended to be most important where issues had no immediate economic impact, as in foreign policy coordination and purely institutional concerns, such as the role of the European Parliament—both theories rightly predict the predominance of concerns about security and sovereignty.

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<sup>11</sup> For a more detailed argument than that found in this book, see Andrew Moravcsik, “Prudence, Audacity, Seduction: De Gaulle and Europe Reconsidered,” (Center for European Studies Working Paper, Harvard University, 1998).

Second, it appears that significant geopolitical factors were more ideational than objective, and often connected with prestigious national leaders. The historical record more strongly supports the “liberal constructivist” variant of geopolitical theory than those grounded in more objective Realist power balancing or collective security. To be sure, threats from the Soviet Union and Germany lurked in the background, particularly early in EC history. Neither, however, generated overwhelming pressure for integration. Strong geopolitical support or opposition to European integration tended to reflect instead—as Stanley Hoffmann and others have long maintained—distinctive ideological interpretations of objective circumstances emanating from a domestic minority. Adenauer’s pro-French conception of German alliance policy, de Gaulle’s vision of an autonomous Europe, Thatcher’s “root and branch” opposition to European federalism, and Kohl and Mitterrand’s equally extreme support for this goal were all rather idiosyncratic minority positions. In each case there were numerous possible responses to objective threats, of which European integration was neither the most obvious nor, often, the most popular.

Third and perhaps most striking, Germany accounts for all three cases in which geopolitical factors appear to have actually influenced core national preferences: German preference formation in the Treaty of Rome, the 1960s, and the Maastricht negotiations, respectively. This, combined with the observation above that geopolitical considerations tend to be mediated by ideology, suggest that postwar Germany’s “semi-sovereign” status, in particular the postwar commitment of the German public and political elite to multilateralism, played a significant, if secondary, role in shaping the EC we know today.<sup>12</sup>

On balance, however, economic interests appear to have remained dominant throughout. Looking back over forty years, one is struck by the incremental nature of shifts in the relative positions of national governments, despite the entry and exit of governments with radically different ideologies. Against a background of slowly deepening commitment to integration, the relative positions of Britain, France, and Germany on issues like agricultural liberalization, safeguards on internal tariff reductions, GATT negotiations, and competition policy have remained relatively constant—a point I shall return to below. The steady deepening of economic interdependence among European governments seems to offer a ready explanation, whereas objective geopolitical motivations would lead us to expect some long-term decline in support for integration as colonial concerns, the German menace, the internal Communist challenge, and lastly the Soviet threat receded.<sup>13</sup>

## **B. Interstate Bargaining in the European Union**

Having examined competing explanations of national preferences, the first stage of the rationalist framework of international cooperation, we turn now to the second stage:

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<sup>12</sup> For a defense of this position, Peter Katzenstein, “United Germany in an Integrating Europe,” in Peter Katzenstein, ed., *Tamed Power: Germany in Europe* (Ithaca: Cornell University Press, 1997), 1-48.

<sup>13</sup> Only in the case of traditional neutrals may geopolitical factors have played an important role, but even here the evidence is at best ambiguous. Sieglinde Gstöhl, *Reluctant Europeans: Sweden, Norway, and Switzerland in the Process of European Integration (1950-1995)* (PhD. Thesis, Institut des Hautes Études, Université de Genève, 1998).

interstate bargaining. National preferences are often heterogeneous. How, then, can we explain the specific terms of the substantive bargains on which governments agree?

For this purpose we may usefully treat treaty-amending negotiations as bargaining games over the precise terms of mutually beneficial cooperation. Such negotiations tend to be, in game-theoretical language, coordination games with distributional consequences.<sup>14</sup> In such bargaining games, the configuration of (domestically-determined) national preferences defines a "bargaining space" of potentially ratifiable agreements—all of which are equilibrium outcomes, that is, all governments prefer them to unilateral or coalitional alternatives. There are generally numerous such agreements extending out to and along a Pareto-frontier of efficient bargaining, in which all possible joint gains have been exploited. Since alternative Pareto-improving agreements generally impose differential gains and losses on countries, governments are rarely indifferent among them. Thus they often dispute the precise nature of policy coordination, its speed and scope, and the associated side payments. Interstate negotiation is the process of international collective choice through which potential agreements are identified and one is selected.

Two broad theories have been advanced to explain the efficiency and distributional outcomes of EC negotiations. These theories seek to distill the core of two major informal approaches to explaining negotiations in the European Community and in international regimes more generally. In accordance with common usage, I term one supranational bargaining theory, the other intergovernmental bargaining theory. While these rubrics invoke a language specific to theories of regional integration, the underlying theoretical questions are general: What assumptions should explanations of international economic negotiations make about the distribution of information, the sources of bargaining power, and the resulting influence of third parties? The predictions of bargaining theory are notoriously sensitive to shifting assumptions about the information, strategies, and tactics available to actors, as well as their preferences, yet few analyses of EC negotiations render such assumptions explicit.<sup>15</sup> The differences between the two are in fact stark.

The supranational theory stresses the decisive role of leading supranational officials, among them Jean Monnet and Jacques Delors, in providing the political entrepreneurship needed to overcome inefficient bargaining and to influence distributional outcomes. The supply of information provided by entrepreneurs imposes the binding constraint on the efficiency and distributional outcomes of cooperation. This was the standard view of European integration between the 1960s and 1980s.

The intergovernmental theory argues, to the contrary, that underlying demand for cooperation, not the entrepreneurial supply of information, imposes a binding constraint on negotiations. Efficiency is relatively unproblematic because interested governments are able to act as their own political entrepreneurs. Negotiators focus instead primarily on the distribution of benefits, which are decisively shaped by the relative power of national

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<sup>14</sup> This is the core of modern bargaining and negotiation analysis. See Raiffa, *Art*; James K. Sebenius, "Negotiation Analysis," in Victor A. Kremenyuk, ed., *International Negotiations: Analysis, Approaches, Issues* (San Francisco: Jossey-Bass, 1991), 203-215; Krasner, "Global."

<sup>15</sup> For a critique along these lines, Barry Eichengreen and Jeffrey Frieden, "The Political Economy of European Monetary Integration: Introduction," *Economics and Politics* 5:2 (1993): 93. More generally, John Harsanyi, *Rational Behavior and Bargaining Equilibrium in Games and Social Situations* (Cambridge, Cambridge, 1977), 6; Scharpf, *Games*, Chapter Six.

governments, understood in terms of asymmetrical policy interdependence. Patterns of interdependence underlie credible threats to veto, exit and exclude other governments, as well as, though secondarily, linkages between issues and offers of side payments. Whereas the supranational view assumes that transaction costs are high relative to the gains from agreement for all actors except supranational officials, the intergovernmental view assuming they are low and that therefore the pattern of state preferences and power—in particular the opportunity costs of foregoing agreement—is the decisive determinant of specific agreements.<sup>16</sup>

Information and ideas, as intergovernmental bargaining theory predicts, have generally been plentiful. They have been widely available and symmetrically distributed among states. Supranational officials did not, in general, possess superior information or ideas of any kind. Often representatives of the most interested national governments were better informed. Technically, the Commission has remained reliant on national officials, particularly in complex areas like the CAP and monetary policy; sometimes the Commission simply could not (or was not permitted to) follow technical negotiations. The political information and judgment of Commission and Parliament officials is even less reliable. Supranational officials tended to ignore political constraints and render overoptimistic judgments about the political feasibility of their preferred options. This was true from the start. Ernst Haas sees 1956 as the year when "Monnet's doctrine of a strong, united Europe . . . resting on a large common market came into its own."<sup>17</sup> The truth was precisely the opposite: Monnet sought to persuade Konrad Adenauer and others to reject the customs union in favor of the creation of Euratom. It would be the same over the coming years. Hallstein sought to pressure de Gaulle to accept greater centralization of Commission control and Delors sought to secure a more pro-French and federalist result in the Maastricht negotiations. Both were futile and demonstrated a remarkable lack of political judgment.

Interested member governments or private individuals, not supranational officials, initiated and mediated major EC negotiations. Governments and private groups typically submitted dozens, sometimes hundreds, of proposals. When existing initiatives are unsatisfactory to a government, it typically offered alternatives, in some cases submitting entire draft treaties. The bias, if any, in the supply of proposals considered by governments was in favor of political viability, as intergovernmental theory predicts, not in favor of the vision of supranational actors. Proposals that appear to be proposed by international actors were actually managed behind the scenes by major governments through classical diplomatic means, as in the case of the Spaak Report, the design of the CAP, Schmidt and Giscard's EMS proposal, and the Delors Report on EMU. More typical are situations in which too many proposals must be whittled down to one.

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<sup>16</sup> Though the two theories are distinct, the difference between them is dimensional not dichotomous. If transaction costs are moderately high or variable across issues, it is possible for both theories to contribute to an explanation of bargaining outcomes. Two studies that hint at this are Geoffrey Garrett and Barry Weingast, "Ideas, Interests and Institutions: Constructing the European Community's Internal Market," in Goldstein and Keohane, eds. *Ideas*, 173-206; George Ross, *Jacques Delors and European Integration* (Oxford: Polity Press, 1995).

<sup>17</sup> Ernst B. Haas, *The Uniting of Europe: Political, Social and Economic Forces, 1950-1957* (Stanford, CA: Stanford University Press, 1958), 299, 317.

Lest one conclude too quickly that this whittling-down task might itself have required a third-party mediator, the Maastricht negotiations over political union provide a particularly satisfying test. The Commission stayed out of the negotiations, turning over entrepreneurial functions entirely to the rotating national presidency—held then by tiny Luxembourg, which was backed by less than a dozen officials drawn from the more intergovernmental EC Council secretariat. The Luxembourgish swiftly sorted through hundreds of available national proposals and manage the negotiations using a single negotiating text. In this negotiation as well as the others, critical bargains were reached by chief executives (and, less often, ministers and diplomatic representatives), unmediated by third parties. The exceptions are few and scattered. Where mediators were employed, they tended to be third governments, as in the case of Maastricht. This finding, consistent with at least one recent comparative study of multilateral negotiations, suggests that transaction costs are low, relative to the stakes for and capabilities of even the smallest EC member state.<sup>18</sup>

Cross-case comparison casts an unfavorable light on certain widespread *ex post* claims concerning the powerful impact of entrepreneurs. Jacques Delors, for example, is often credited with decisively expediting the single market project by setting a clear deadline for its completion (“Europe 1992”)—even though he was not the only one to propose a deadline. The importance of this tactic—much heralded by journalists at the time—seems plausible until we compare the 1992 initiative with the many previous EC proposals by the Commissioner that have been ineffective despite the use of dates. Two earlier Commission schedules for the removal of non-tariff barriers were ignored. The Werner Plan for EMU by 1980 failed entirely. Other outcomes were achieved more quickly than expected. The customs union, initially scheduled for 1970, was finished in 1968, though the Commission had proposed even earlier dates in the interim. Hence the lesson that deadlines are productive was far from obvious, even to other EC entrepreneurs. None other than Monnet believed the opposite: “Everything takes longer than one expects—which is why one must never set time-limits for succeeding.”<sup>19</sup> Similarly, the reputation of Monnet, Hallstein, and Delors as particularly creative and visionary political entrepreneurs is tarnished by the fact that was associated with early success, then failure and disappointment—Monnet with the EDC and EC, Hallstein in the “empty chair” crisis, and Delors at Maastricht. This suggests that successful outcomes create a reputation for great entrepreneurship as much as the

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<sup>18</sup> Fen Osler Hampson, assisted by Michael Hart, Multilateral Negotiations: Lessons from Arms Control, Trade and the Environment (Baltimore: Johns Hopkins University Press, 1995). More generally, Donald Chisholm argues that within “multiorganizational systems”—of which the EC is surely a prime interstate example—“where formal organizational arrangements are absent, insufficient or inappropriate for providing the requisite coordination, informal adaptations develop [which] may be quite stable and effective, more so perhaps than formal hierarchical arrangement. Furthermore, because informal organization permits the continued existence of formally autonomous organizations in the face of mutual interdependence, it can achieve other values, such as reliability, flexibility and representativeness, that would otherwise be precluded or substantially diminished under formal arrangements.” See Chisholm, Coordination without Hierarchy: Informal Structures in Multiorganizational Systems (Berkeley: University of California Press, 1989), 17-18.

<sup>19</sup> Martin Holland, “Jean Monnet and the Federal Functionalist Approach to European Union,” in Philomena Murray and Paul B. Rich, eds., Visions of European Unity (Boulder: Westview, 1994), 93.

reverse and leads even leading supranational bargaining theorists to wonder whether Commissioners have an "asymmetrical incentive" to overreach.<sup>20</sup>

There exists, however, one major, if only partial, exception to the dismal record of supranational entrepreneurs.<sup>21</sup> The "White Paper" drafted by Arthur Cockfield, working with Delors, in preparation for the SEA was the only case in this study a successful major supranational initiative that was not first proposed in a similar form by a member state. In addition, between 1979 and 1985, Parliament and Commission officials encouraged the mobilization of multinational firms into a coherent political force; they became strong supporters of the SEA. Initiation and mobilization by supranational officials may well have increased the efficiency of the SEA agreement by opening up the possibility to realize common interests in NTB liberalization, though they did not alter distributional outcomes. Delors' own account clearly recognizes member state opposition to any other proposals; he shelved his preferred proposals for monetary and institutional reform and became a late convert to trade liberalization. Parliamentary demands for fundamental institutional reform were never taken seriously, but its demands—more weakly supported—for internal market reform were.

Whereas the bulk of the recent literature on EC negotiations focuses on the SEA alone and asks why the Commission and Parliament so powerful, a comparative perspective reverses the question: Why is the SEA the only major example in EC history in which this is the case? This permits us to refine the theory to propose a more precise reason for exceptional entrepreneurial influence.<sup>22</sup> Recall that Commissioners, parliamentarians, and judges must enjoy privileged access to information and ideas critical for efficient negotiation, which in turn permits them to act as informal initiators, mediators, or mobilizers. As we have seen above, none of the conventional reasons cited in the literature on integration, negotiation analysis, international law, and international regimes explain why supranational officials may possess such privileged access. Commissioners, Parliamentarians, and judges

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<sup>20</sup> George Ross, Jacques Delors and European Integration (Oxford: Polity Press, 1995), 13-14.; Ken Endo, Political Leadership in the European Community: The Role of the Commission Presidency under Jacques Delors, 1985-1995 (St. Anthony's College, Oxford University: mimeograph, 1995).

<sup>21</sup> There are also some minor exceptions. Examples include the development of high-technology programs in the early 1980s, though these programs, due to their unique adherence to juste retour principles, did not move beyond reconfiguring existing national funds, and the eleven country "opt-in" on social policy at Maastricht, which may have slightly increased the strength of social policy over what otherwise would have been accepted by the Mediterranean countries and, perhaps in the future, Britain. On these see Wayne Sandholtz, High-Tech Europe: The Politics of International Cooperation (Berkeley: University of California Press, 1992); Paul Pierson, "The Path to European Union: An Historical Institutionalist Account," Comparative Political Studies 29:2 (April 1996), 123-164.

<sup>22</sup> For a more detailed argument based on these cases, see Andrew Moravcsik, "A New Statecraft? Supranational Entrepreneurship and Interstate Cooperation." International Organization 53(2): 267-306. This casts some light on the underlying reasons why the results reported here conflict with nearly all previous work on supranational influence in the EC. Previous studies tend disproportionately to investigate those cases in which supranational entrepreneurs were active and the outcomes were positive, then simply examine strategies supranational entrepreneurs took, assuming their efficacy. There are few studies of overt failure. For every examination of the failure of the series of Mansholt Plans for CAP reform, there are dozens on Delors and Cockfield's initiative in the SEA negotiations. Moreover, studies tend to be uncontrolled for the simultaneous activities of other actors, notably national governments. Hence when supranational officials proposed initiatives and compromises and agreement was reached, a causal relation is assumed. As we have seen, the redundancy, futility, and flexibility of supranational entrepreneurs means that this cannot be assumed.

were not particularly neutral and trustworthy mediators of distributive conflict, more legitimate representatives of the popular will, more creative politicians, or more expert technocrats. None of these commonly cited explanations explain the SEA exception.

There is, however, good reason to believe that supranational entrepreneurs may enjoy a comparative advantage in redressing weaknesses in domestic bargaining, where the number and size of actors, the transparency of their preferences, the risk each bears, and nature of property rights suggests that bargaining failures should be more likely.<sup>23</sup> Theories of comparative public policy suggest three conditions under which such entrepreneurship is likely to be effective: Where potentially powerful domestic interests remain unorganized and therefore “latent,” where organized groups lack access to domestic officials willing and able to represent their interests, and where the aggregation of interests within domestic political systems—domestic bureaucracies, parties, or parliaments—fails to bring viable proposals to the attention of national decision-makers. A centralized, autonomous, and coherent supranational bureaucracy dedicated to the single purpose of promoting integration might be able to overcome such difficulties by virtue of its independence from special interests, its ability to coordinate disparate policy areas, and its continuous access to interest groups from more than one country.<sup>24</sup>

Distributional outcomes have tended rather to mirror the relative bargaining power of governments, understood as the pattern of issue-specific asymmetrical interdependence. Governments were consistently constrained by credible threats to veto, which reflected the domestic ratifiability of agreements. This was the primary concern particularly of the less forthcoming governments, such as those of Britain and France in the 1950s; Britain and Germany in the 1970s; Germany and Britain in the 1990s, even, to an extent, even de Gaulle’s France in the 1960s. Within these constraints, governments that perceived themselves as benefiting most (in domestic political terms) from any core agreement—as Germany benefited from industrial tariff reductions in the 1950s, France from agricultural liberalization in the 1960s, Britain from the SEA in the 1980s, and France from the EMS and

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<sup>23</sup> Robert O. Keohane, *After Hegemony: Cooperation and Discord in the World Political Economy* (Princeton, NJ: Princeton University Press, 1984); Oliver E. Williamson, *The Economic Institutions of Capitalism* (New York: Free Press, 1985).

<sup>24</sup> There is good reason to suggest that this may explain the singular influence of the Commission and Parliament in the SEA negotiations. Alone among major EC bargains, the SEA linked a large number of issues with no substantive or bureaucratic connection among them, each of which was relatively novel and appealed primarily to an unorganized transnational constituency. While EC member governments had long negotiated tariff removal, agricultural policy, and exchange-rate stabilization, and each was firmly in the hands of a one or a few lead ministries, no single ministry was competent to judge financial and transport service liberalization, phylo-sanitary regulations, industrial standardization, the removal of customs controls, and environmental regulation—to name only the major areas covered by the SEA. Such a package deal was beyond the scope of any national bureaucracy, but emerged naturally from ongoing Commission activities. Moreover, the major social group that might have advocated liberalization—multinational business—was neither nationally or internationally organized until Commission officials and parliamentarians encouraged its organization around common programs for research, high technology, and market liberalization. This “two-level” explanation, which views supranational entrepreneurs as important by virtue of their superior ability to influence the domestic level as “managers” of domestic and transnational “social networks,” rather than by virtue of any unique ability to intervene at the international level as policy initiators and mediators. The view that the true impediment to efficient interstate bargaining are domestic rather than international—and, therefore, that the decisive actions of supranational entrepreneurs should be understood as domestic intervention—deserves further theoretical refinement and empirical testing.

EMU agreements—proved most willing to compromise in order to achieve it. While this analysis was complicated slightly in the EMS and EMU cases by the “kinked” shape of the German win-set, there is compelling evidence that participants perceived the German win-set as the binding constraint on bargaining.

Of particular interest to those interested in the sequencing and scope of regional integration are the explicit threats of exit and exclusion employed by governments, which altered the negotiated outcome when they were credible. Britain's structural vulnerability to exclusion offers one consistent example. Harold Macmillan in the initial accession negotiations, James Callaghan in the EMS negotiations, Margaret Thatcher in the SEA negotiations, and John Major in the Maastricht negotiations were all explicitly threatened with exclusion. All four prime ministers responded by seeking to block agreement among the others, often by linking the negotiations to security threats—either withdrawal of troops from Europe or an Anglo-French nuclear alliance. When this failed, they compromised. As predicted by intergovernmental theory, the compromises they reached reflected the perceived relative costs and benefits of exclusion. In an area like the Maastricht social protocol, where the British government perceived advantages from non-participation, it welcomed exclusion. In areas like tariff and monetary policy, where it perceived disadvantages from exclusion, it sought to compromise.

This helps to explain the dynamics of enlargement.<sup>25</sup> Each previous round of EU enlargement has gone through a parallel and predictable negotiation process. In each round of enlargement, applicant countries have consistently found themselves in a weak negotiating position vis-à-vis their EU partners, and accordingly have conceded much in exchange for membership. And this effect has increased time. From an intergovernmental perspective, the reason is clear. Relative bargaining power in international negotiations tends to track relative preference intensity. Those countries that gain the most through more intense interstate cooperation—more precisely, those for whom cooperation is most attractive relative to unilateral (or mini-lateral) policymaking—have the most intense preferences for agreement and thus are willing to compromise the most on the margin to further it. In the language of international relations theory, interstate bargaining outcomes reflect patterns of “asymmetrical interdependence”—more “interdependent” countries tend to benefit more from liberalizing markets, and are thus willing to make concessions to do so.<sup>26</sup>

Within the EU, such beneficiaries tend to be (all other things equal) those countries that are smallest in GNP terms, whether due to geographical location or developmental stage. For small countries, the increased economies of scale of entering the European market are of greatest marginal significance. The existence of distinct comparative advantages in relevant export sectors further shapes their specific interests.<sup>27</sup> Once the back and forth of negotiation is complete, the subjective sense for such countries is often of having bargained poorly, because they are forced to make disproportionate concessions during the

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<sup>25</sup> For a sophisticated treatment, see Walter Mattli,

<sup>26</sup> Keohane and Nye 1997

<sup>27</sup> This is distinct from the classic realist focus on the use of overall “capabilities” to back credible threats of costly coercion (e.g. sanctions, military force), which are simply not credible in the EU context. Coercive bargaining of this type is essentially unknown in the EU. For an otherwise insightful analysis that conflates these two processes, see Gruber (2000).

negotiations. Yet this is a function of the large overall net benefit to them, which also compels ratification and implementation of the resulting agreement.

The negotiation of the original Treaty of Rome during the mid-1950s offers a striking example. As the logic above would predict, the country whose foreign minister had initially proposed the customs union and which benefited the most per capita from its realization—namely the Netherlands—was forced to make the greatest concessions on the margin to achieve agreement. The result was that the Treaty was viciously criticized by Dutch politicians and the public—more so, perhaps, than in any other of the six original member states, even though (or precisely because) non-ratification by the Netherlands was never a realistic option. The obverse case in the 1950s was that of France, which achieved almost all of its negotiating goals in large part because, as a large and macro-economically uncompetitive country, French non-ratification was a realistic possibility up until the final moment. Add to these structural economic realities a general German tendency to be somewhat more forthcoming in order to cement geopolitical alliances—a constant of European integration until, and beyond, 1989—and the bargaining outcomes are precisely what one would expect.<sup>28</sup>

The same pattern has characterized EU bargaining ever since: specific interstate concessions and compromises tend to reflect the priorities of the EU's core countries, and disproportionately the most powerful among them, even as more peripheral countries benefit as much or more overall. Enlargement negotiations with Britain, Ireland, Denmark, Greece, Spain, Portugal, Sweden, Finland and Austria track this pattern.<sup>29</sup> In each case, bargaining demands by applicant countries for recognition of their particular circumstances were stripped away one by one until a deal was struck that disproportionately reflected the priorities of existing member states. Thus Britain in 1973, though relatively poor, ended up a large net contributor to the EU budget. Ireland, Denmark, Greece, and Spain were subsequently forced to accept agricultural arrangements not particularly well suited to their particular comparative advantages, and often involving lengthy transition periods. In the 1990s, the enlargement to include Sweden, Finland and Austria thrust full membership on countries that initially sought greater market access in the context of a less comprehensive commitment.

So it is, and is likely to remain, with successive applicants from Central and Eastern Europe. EU member states and the eastern applicants will both benefit from EU enlargement, but new applicants will benefit more—and this puts the latter at a disadvantage in bargaining.

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<sup>28</sup> On the interrelationship between economic and geopolitical goals, see Moravcsik (1998: 472-501).

<sup>29</sup> Mattli 1999, also Baldwin 1995.

<b>Rounds of Enlargement</b>	<b>GNP of applicants/ GNP of existing members</b>	<b>GNP per capita of applicants/GNP of existing members</b>
<b>1<sup>st</sup> Enlargement (1973): UK, IRE, DK</b>	20%	79%
<b>2<sup>nd</sup> Enlargement (1981): G</b>	2%	48%
<b>3<sup>rd</sup> Enlargement (1986): ES, P</b>	7%	42%
<b>4<sup>th</sup> Enlargement (1995): S, SF, A</b>	8%	115%
<b>5<sup>th</sup> Enlargement (2000+): PO, H, CZ, SK, SL, BU, RO, LA, LI, ES, MAL, CYP</b>	5%	14%

The basic asymmetry of interdependence and thus power is evident from the simple fact that the collective GDP of the next ten applicants for membership totals no more than 3-5 percent that of the current EU-15—less than any other major enlargement of the EU.<sup>30</sup> This is roughly the weight of Mexico’s economy as compared to that of the United States.

This is one clear way in which sequence has mattered in European integration. The order of accession has meant that early members have a greater impact on existing policies. Subsequent members find themselves in a weaker bargaining position vis-à-vis the first movers, and the structure of the EU—notably the CAP, which favors early members France, Italy and even Germany, but has been strikingly disadvantageous to the United Kingdom. There are, however, more ambitious arguments about sequence, to which we now turn.

## **II. DOES SEQUENCE MATTER? THE HISTORICAL INSTITUTIONALIST CHALLENGE**

The explanation of European integration presented above is controversial not simply because some continue to challenge the adequacy of its component parts: economic rather than geopolitical or ideology sources of preferences, interstate bargaining on the basis of preference intensity rather than models of leadership, and ideological rather than instrumental theories of delegation. It has also been challenged by “neo-functionalism” or “historical institutionalist” (HI) theories. These theories view integration not solely as an endogenous response to exogenous shifts in structural variables, but as having given rise to an endogenous process of recursive “spillover”, in which policies and institutions give rise to autonomous dynamics and “unintended consequences,” which then influence further integration. In sum, the HI perspective develops the view that European integration is “path dependent.” The basis of these theories lies in theories of increasing returns and institutions drawn from economics and political science.

Neo-functionalism, developed by Ernst Haas in the 1950s, was one of the first among “grand theories” of integration, but it lacked the microfoundations to support its ambitious claim that integration, once started, would continue to generate feedback or

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<sup>30</sup> Greece, which entered alone under unusual circumstances, is an exception.

“spillovers”, and thus further deepening of the integration process.<sup>31</sup> Applications of HI theory to the EU stress the ways in which preferences and power are endogenous to the integration process, rather than exogenous structural forces. Economic integration and institutional development become self-reinforcing through a continuous feedback process, generally termed “spillover,” which can proceed in two ways.<sup>32</sup> Previous decisions can induce changes in national preferences, which promote further integration. This “social spillover” argument is generally applied to economic adjustment, but some also stress ideological or ideational changes. Alternatively, international institutions may alter the terms under which governments negotiate new bargains by empowering supranational officials—a process I shall term “political spillover.”

Most advocates of HI, like their neo-functional predecessor, do not explicitly claim that it displaces a structural rationalist view entirely.<sup>33</sup> Yet many HI theorists nonetheless maintain that feedback and spillover effects are so massive as to swamp any consistent effort to develop consistent theories of national preferences or strategies.<sup>34</sup> The force of this argument lies in the claim that the consequences of these decisions are often unforeseen, unintended, or undesired. As Perry Anderson puts it in his critique of recent EC scholarship, “If all historical undertakings are subject to the fatality of unintended consequences, the more deliberate they are the more pronounced the gap may become. The “construction of Europe”...was bound to lead to...a persistent pattern of consequences that disconcerted and foiled the intentions of its architects.”<sup>35</sup> In other words, if governments are constantly forced to react to unintended consequences of previous decisions, HI theorists ask, what sense does it make to speak, of governments *choosing* Europe.

## A. Socioeconomic Spillover

Structural economic trends underlying national preferences—trade liberalization, agricultural subsidization, capital mobility, regulatory harmonization, macroeconomic convergence—do not appear to have been induced primarily by prior decisions. These trends emerged nearly a decade before the EC. The swiftest period of export expansion in postwar Europe was the 1950s and early 1960s, before the EC could have had a decisive

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<sup>31</sup> Ernst Haas, *The Uniting of Europe: Political, Social and Economic Forces, 1950-1957* (Stanford, CA, Stanford University Press, 1958). For a critical assessment, see Andrew Moravcsik, “The European Constitutional Compromise and the Neo-functional Legacy,” *Journal of European Public Policy* 12:2 (April 2005), pp. 349-386.

<sup>32</sup> Stephen George, *Politics and Policy in the European Community* (Oxford: Clarendon Press, 1985).

<sup>33</sup> Most concede that the most fundamental task is to explain individual decisions, even if the inputs to them are the result of previous decisions. Without a theory of individual decisions, we would not know what sort of feedback mattered.

<sup>34</sup> Two leading theorists make this explicit. See Pierson, “Path,” is the by far most sophisticated study, since it specifies conditions under which we should expect to observe such effects. See also Wayne Sandholtz, “Choosing Union: Monetary Politics and Maastricht,” *International Organization* 47:1 (Winter 1993), 1-40.

<sup>35</sup> Perry Anderson, “Under the Sign of the Interim,” *London Review of Books* (4 January 1996), 17.

impact. British industrial exports, for example, had completed the bulk of their shift from the Commonwealth to the Continent, with decisive consequences for Britain's EC policy, before Britain joined the EC.

Consistent with this, existing econometric models of trade flows suggest that only a modest percentage of the postwar increase in European trade can be attributed to policy changes; nearly all the increase, at least until the 1980s, reflects structural factors like geographical proximity and per capita income. (The effect on agricultural trade is, as would be expected, much higher.)<sup>36</sup> The same can be said of decisive economic trends such as rising capital mobility, disinflation, financial liberalization, and disenchantment with industrial policy. Throughout the period all West European countries were greatly influenced by these structural trends, whether or not they were EC members.<sup>37</sup>

This is not to say, however, that prior economic integration has had no impact on subsequent national preferences. It is clearly true that rapid structural adjustment and rationalization meant that more competitive producers adapted to trade liberalization by expanding exports and investment, while less competitive producers were eliminated or consolidated. On balance this created new constituencies for further liberalization, while undermining its opponents. There is little doubt that structural adjustment and other economic feedback effects helped to "lock in" integration in Europe—a phenomenon that deserves more study in studies of international regimes more generally. Sometimes feedback was ideological, as when the apparent success of Adenauer's initially controversial strategy of Franco-German cooperation rendered impossible a policy reversal perhaps desired by his successor, Ludwig Erhard. On this point there is agreement between HI theory and the interpretation advanced here. [Goldstein,

Yet the empirical analysis in this book suggests that these consequences were neither unforeseen nor unintended, as HI theory claims. To the contrary, it was the deliberate triumphs of European integration, not its unintended consequences, which appear to have increased support for further integration. This is the key point of divergence between HI theory and "New Synthesis" interpretation. For most governments, inducing economic modernization—even with unpleasant side effects—was the major purpose of European integration.

The historical record reveals that the consequences of major decisions were in fact foreseen and desired by national governments to a much greater extent than most analysts—not least HI theorists—are aware. In some cases, among them the EMS and EMU, governments appear to have employed the EC explicitly as a scapegoat. Even where this was not the case, the analysis above reveals that nearly all governments were generally well-aware of the likely short- and long-term policy consequences of integration, good and bad. Sometimes, as with the SEA, they underestimated the success of a policy, but they almost never misperceived the direction of future change. Major national governments foresaw and

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<sup>36</sup> Jeffrey A. Frankel, Regional Trading Blocks in the World Economic System (Washington DC: Institute for International Economics, 1997), 83-86.

<sup>37</sup> David Andrews and Thomas D. Willett, "Financial Interdependence and the State: International Monetary Relations at Century's End," International Organization 51:3 (Summer 1997), 479-511.

accepted—indeed often sought to induce—outcomes like the rationalization of European industry in response to the customs union, the emergence of large CAP surpluses, the asymmetrical operation of the EMS, the reduction in governmental discretion after reducing non-tariff barriers, and the possibility that majority voting on NTBs would permit governments to be outvoted on a range of important issues.

Overall, there is little evidence for strong spillover effects. HI theorists overlook the foresight of governments because their analyses are rarely based on a detailed primary-source analysis of national preference formation. Instead, they make do with public justifications by governments or secondary sources.<sup>38</sup> Yet since governments often have an incentive to deny or simply ignore their responsibility for certain outcomes—CAP surpluses, monetary discipline, and downward pressure on social spending, for example—accounts based on secondary sources and the public justifications of governments tend to generate inadequate, even misleading, support for claims about “unintended” consequences.

## B. Political Spillover

Some HI theorists focus instead on “political spillover.” They argue that the feedback from prior policies to current ones is mediated not by economic adaptation and cross-policy externalities, but by the deepening of supranational institutions.

The greatest success of HI explanations stressing “political spillover” has been its explanation of the autonomous development of European law—and, in particular, the successful assertion of the supremacy of European law by the European Court of Justice (ECJ). There is no doubt that this evolution was unintended by the framers of the Treaty of Rome and that it came about because supranational officials—the ECJ judges—were able to convince national judges to recognize European law and to refer cases to the European body.<sup>39</sup> The causal process as a whole is more complex, involving a particular set of domestic incentives, but it clearly involves political spillover of considerable consequence for the EU.<sup>40</sup> At the same time, however, there is little evidence that the increased powers of the ECJ, while perhaps important for assuring compliance, have an impact on the long-term trajectory of the Treaty of Rome.

A stronger variant of “political spillover” would stress the entrepreneurial activities of supranational actors. European institutions such as majority voting or the powers of implementation in the hands of the Commission impose unwanted policies on certain governments—an argument often advanced in studies of British policy. A cottage industry of research looks to individual majority decisions that unexpectedly undermined the interest of a given state. Others point to the existence of “joint decision traps,” where governments

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<sup>38</sup> For a partial exception, see Paul Pierson and Stephan Leibfried, eds. *European Social Policy* (Washington: Brookings Institution, 1995).

<sup>39</sup> Anne-Marie Burley and Walter Mattli, “Europe before the Court: A Political Theory of Legal Integration,” *International Organization* 47:1 (Winter 1993): 41-76.

<sup>40</sup> Karen J. Alter, *Establishing the Supremacy of European Law: The Making of an International Rule of Law in Europe*. Oxford, Oxford University Press, 2001.

are locked into undesirable policies by the need to muster unanimous support for any new legislation or treaty amendment. This is commonly cited as an explanation of CAP surpluses or the absence of a fully developed EC social dimension.<sup>41</sup>

Three findings call an interpretation of the EU in terms of “political spillover” into question. The first is that supranational political entrepreneurs like Jean Monnet, Jacques Delors and Romano Prodi have wielded relatively little influence—direct or indirect—on major interstate negotiations. Neither their long-term efforts to structure the agenda, nor their efforts to mediate among governments, nor even their efforts at social mobilization had a consistent impact on negotiated agreements—the Single European Act in 1985-6 being a significant but only partial exception. In broader historical perspective cases often cited by HI theorists as examples of feedback tend to be marginal and often transient deviations from historical trends—such as, for example, British policy with regard to the Maastricht social charter. If an HI argument is to be viable, therefore, it must rest on feedback loops that run through everyday decision-making.

The study of major bargains reveals a second empirical finding that undermines HI claims, namely that the construction of an international regime in which legislation is voted over the opposition of minorities and rules are enforced against the obstruction of the recalcitrant—in short, the transfer of sovereignty and autonomy to supranational institutions—was not an unintended consequence of major EC decisions. It was their primary purpose. Most institutional constraints that HI theorists treat as unintended or unforeseen consequences of prior integration—qualified majority voting and a measure of autonomy for the Commission and Parliament, for example—were in fact constructed deliberately to enhance the credibility of commitments. In a world where governments with varied preferences negotiate and construct institutions in order to commit one another to linked sets of bargains under uncertainty about future eventualities, the inability of each state always to achieve its ideal outcome on every issue is thus hardly surprising. The working out of such linked bargains has been the central activity of the EC; had they been easy to reach without uncomfortable adjustment by any member state, little bargaining and no institutions would have been necessary.

Governments were hardly unaware that they were assuming risks of being outvoted or overruled; to the contrary, we have seen that they repeatedly calculated the consequences in great (and, for the most part, accurate) detail. This is true even for policy outcomes—such as the high agricultural surpluses—often mentioned as unintended consequences. European governments were quite aware, for example, of the likely consequences of constructing the CAP as they did. If they failed to reverse policy, it was not because unanimous voting arrangements prevented them from doing so. (Never did a simple majority favor major CAP reform and reductions in prices imposed by majority vote would have likely triggered unilateral non-compliance by Germany through means such as MCAs, as occurred early in

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<sup>41</sup> Fritz Scharpf, “The Joint-Decision Trap: Lessons from German Federalism and European Integration,” *Public Administration* 66 (Autumn 1988), 239-278; Fritz Scharpf, “Politische Optionen in vollendeten Binnenmarkt,” in Markus Jachtenfuchs and Beate Kohler-Koch, eds., *Europäische Integration* (Opladen: Leske+Budrich, 1996), 109-140; Pierson, “Path.” The studies on Britain are too numerous to cite. For an overview of Commission activities, see Laura Cram, *Policy-Making in the EU: Conceptual Lenses and the Integration Process* (London: Routledge, 1997).

the 1960s.<sup>42</sup>) Such provisions did hit certain governments—those, predictably, with relatively extreme preferences—particularly hard. No surprise, therefore, that we encounter many case studies of Thatcher’s Britain.<sup>43</sup> In sum, the existence of states dissatisfied by particular aspects of a political arrangement, far from disconfirming the New Theoretical Synthesis, is a necessary implication of it—as in most regime-theoretical treatment of international cooperation.<sup>44</sup>

One last finding casts overall doubt on the HI interpretation of European integration. HI claims rest, in the final analysis, on the assumption that national preferences and interests are unstable and unpredictable. Only where this assumption holds is a substantive policy commitment or institutional arrangement accepted by a particular government at a particular point in time likely to be perceived by successor governments as an unpleasant and unexpected constraint. In short, the instability of preferences leads short-term and long-term national interests to diverge.

If we take all five major EC decisions as a whole, however, it is the stability and continuity of preferences, not their instability, that stands out. While there has been a slow, linear deepening of support for various types of economic integration—mostly as a result of exogenous trends of which governments were aware, just as the New Synthesis would predict—the relative positions of major governments on core issues like CAP reform, tariff liberalization, GATT negotiations, monetary integration, foreign and defense policy, and the powers of the Council and Parliament have hardly changed in forty years. Germany has consistently sought high farm prices, low agricultural export subsidies, a liberal GATT policy, monetary cooperation on German “economist” terms, a common European foreign and defense policy consistent with NATO, and stronger powers for the Parliament. France has sought moderate farm prices, high export subsidies, more protectionist GATT policy, monetary integration on “monetarist” terms, a more independent common foreign and defense policy, and stronger powers for the Council. Similarly, Britain has sought a minimal CAP, a liberal GATT policy, minimal monetary cooperation, a modest foreign and defense policy, and weak supranational institutions. Time and time again, observers are struck by these continuities. Of the Maastricht negotiations, for example, one analyst observes: “[Hans] Tietmeyer and [Helmut] Schlesinger were also following, with remarkable consistency, the line the Bundesbank had taken thirty years previously when EMU and a European central bank had first been mooted.”<sup>45</sup> With preferences so stable, HI theory itself predicts that we should rarely see EC bargains become unacceptable one or two

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<sup>42</sup> For a critique of Fritz Scharpf’s claims about CAP, see Elmar Rieger, “Agrarpolitik: Integration durch Gemeinschaftspolitik?” in Jachtenfuchs and Kohler-Koch, eds., *Europäische*, 401-428. It is fair to note that Scharpf himself calls into question whether the CAP would have been different with reformed EC institutions. If there was a salient unforeseen consequence in the CAP, it was the success of the policy at stimulating European agricultural trade, which led to a set the formation of a set of vested interests in the system. This aspect of the customs union appears to have had a much greater impact on economic behavior than industrial trade liberalization. Frankel, *Regional*, 85.

<sup>43</sup> Similarly, Germany has been an outlier in agricultural policy and a number of regulatory issues.

<sup>44</sup> Such analysts wrongly assume that Liberal Intergovernmentalist theory treats maximum discretion—protecting sovereignty—as the preeminent state preference. This is clearly incorrect. LI assumes that states seek the substantive goals of major domestic interests. See Pierson, “Path”.

<sup>45</sup> David Marsh, *The Bundesbank: The Bank that Rules Europe* (London: Mandarin Paperback, 1992), 212.

decades later. Finally, where preferences do change, they have tended to do so as the result of clearly exogenous shifts in circumstances, such as the post-war increase in intra-industry trade and, subsequently, increasing cross-border investment and increasing regulatory activity, the shift to more judicialized dispute resolution, and the rise of capital mobility.

On balance, HI theorists are thus correct to note that integration has politically significant consequences, notably shifts in the preferences and institutional environment in which future decisions are made, but that only in exceptional cases are these consequences unintended or undesired. Only a few of the conditions prescribed in HI theory for the emergence of a “path dependent” process of unintended consequences are generally fulfilled. More appropriate to actual state behavior in the EC would be a weaker version of HI—one that stresses intended rather than unintended “lock in” effects as a secondary force behind regional integration. This should be viewed not as an alternative to a structural, rationalist explanation of integration, but as an extension of it. Insofar as future shifts in preferences were foreseen, intended, even desired, HI provides an account of the consequences of integration consistent with the (more static) treatment of individual decisions presented here. Rather than contrasting two ideal types of historical and structural analysis, more attention might more profitably be directed toward the possibility of a synthesis.<sup>46</sup>

### III. A EUROPEAN CONSTITUTIONAL COMPROMISE

Perhaps the greatest weakness of HI theories of integration concerns not their inability to explain the past, but their manifest inability to illuminate the present. Today the fundamental issue facing Europe is no longer what the EU is becoming than what it is. The question is no longer how to bring about ‘ever closer union’ – as the 1950s-style technocratic slogan embedded in the Treaty of Rome put it. Instead it is how to fashion a legal order that assures ‘unity in diversity’ – the slogan embedded in the new draft constitutional treaty. To restate the issues in constitutional terms: How broad is the scope of EU activity, as opposed to nation-state activity, to be? How is power and authority to be divided (or shared) among national and supranational levels, and among various supranational political institutions? What is to be the relationship of these institutions to individual citizens, interest groups, and existing structures of political representation? These are questions of central normative and positive importance in the EU, underlying discussions of subsidiarity, constitutional structure, democratic legitimacy, and substantive policy.

Neofunctionalists and path dependence theorists offer a rather one-sided analysis of this problem, one that assumes a bias toward spillover and centralizing responses. The assumption of neofunctionalism is that, unless atavistic nationalism and ethnocentrism intervene, the EU is destined to continue to integrate. One way to assess such claims would be to evaluate, one by one, the various mechanisms by which spillover might take place. Arguments have been advanced, for example, about the pressures for coordination of fiscal and social policy generated by monetary integration. Such evaluation is a worthy task—but it

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<sup>46</sup> For a more general argument related international regime stability to societal “lock in” effects, see Andrew Moravcsik, “Taking Preferences Seriously: A Liberal Theory of International Politics,” *International Organization* 51:4 (Autumn 1997), 537.

remains essentially irrelevant to current concerns. For what is most striking about the last fifteen years of constitutional change in the EU is the conservative nature of the result.<sup>70</sup> Voting weights and the structure of the Commission have been adjusted, the use of qualified majority voting and the prerogatives of the Parliament have been expanded at the expense of the Commission, and the EU has reinforced essentially intergovernmental cooperation (mostly outside the core ‘first pillar’ of EU institutions) in a number of areas, including immigration and foreign policy. Yet when all is said and done, the expansion in the EU’s institutional prerogatives has been modest. Taken together, all the institutional changes aimed at deepening the EU undertaken since the Maastricht Treaty of 1992 have not had as much impact as the process of enlargement – and even the latter has not generated, from a constitutional perspective, fundamental institutional change or a decisive expansion in the substantive scope of policy-making under the ‘Community method.’

Perhaps, then, we are starting to glimpse what we might term a ‘European Constitutional Compromise’ (or, if one is British, a ‘European Constitutional Settlement’) that is a stable endpoint of European integration in the medium term.<sup>71</sup> The EU appears indeed to have reached a plateau. It may expand geographically, reform institutionally, and deepen substantively, but all this will take place incrementally and within the existing constitutional contours of European institutions. If this is so, then even if there were pressures for spillover, there is little potential for them to be translated into policy. To assess this claim, we must ask, then: Are current arrangements stable against both exogenous shocks and spillover? Is pressure for future progress, whether endogenous or exogenous, likely due to substantive, institutional or normative pressures? New challenges to functional effectiveness, institutional stability, or normative legitimacy are unlikely to undermine the European Constitutional Compromise. Let us consider each dimension in turn, beginning with the substance of policy.

### **A. The Substantive Dimension of the European Constitutional Compromise**

Perhaps the most striking characteristic of the EU as a constitutional system is the limited substantive scope of its mandate. In 1988, Jacques Delors famously predicted that in ten years ‘80 percent of economic, and perhaps social and fiscal policy-making’ applicable in Europe would be of EU origin.<sup>72</sup> This prediction has become a fundamental ‘factoid’ in discussions of the EU – often cited as 80 percent of lawmaking in all issues in Europe already comes from Brussels.<sup>73</sup> Yet recent academic studies demonstrate that the actual percentage of EU-based legislation is probably between 10 and 20 percent of national rule-making.<sup>74</sup> Given the basic structure of the EU constitutional order, this is hardly surprising.

Consider first the substantive limitations on EU policy-making. While there are important areas of centralized governance (monetary policy, anti-trust policy, and restrictions on internal tariffs and quotas) or joint decision-making by EU member states within common institutions (external trade policy, industrial standards, agricultural policy, various economic regulatory matters, certain rules regarding establishment, investment and service provision, and perhaps also basic human rights), these are hardly exhaustive.<sup>75</sup> Many areas are essentially untouched by direct EU policy-making, including taxation, fiscal policy, social welfare, health care, pensions, education, defense, active cultural policy, and most law and order. Moreover, none among the latter policies appears a promising candidate for

“communitarization”. The single market has been declared complete, though incremental expansion continues. In other areas – defense policy, immigration and asylum, law and order, fiscal policy, social policy, even indirect tax harmonization, should it come to pass – EU policy plays a subordinate role. EU policy in these areas tends to proceed by unanimity, with a subordinate role, if any, for the Commission, Parliament and Court.<sup>76</sup> Selection bias again disguises the truth. The limited substantive scope of the EU is obscured by the existing scholarly literature on the EU, which focuses, understandably, on areas of intense activity.

There is thus a considerable literature on the expansion of EU activity in areas like immigration, social policy, and defense. Yet this is in most respects misleading. Even in areas where there is considerable progress, it remains quite limited. By ‘selecting on the dependent variable’ in this way, EU policy-making literature creates the impression of unbounded expansion of policy-making – whereas in fact we observe only limited forays into new policy-making.

Consider immigration policy. Cooperation in this area consists largely of ‘soft’ norms for national policies, coordinated activity vis-à-vis third countries, the exchange of data, codification of existing international obligations, and administrative coordination of parallel national policies (such as the granting of visas and passports). This takes place with reduced norms or oversight by the Commission, Parliament or Court, while national governments retain near total discretion in setting rules, deciding individual cases, imposing overall controls on immigration, designing programs to encourage or inhibit immigration, and nearly all other discretionary aspects of status once in EU member states. There appears, moreover, to be little evidence of policy externalities that might give rise to pressures for a wholesale centralized harmonization of such decisions.<sup>77</sup> Measured by the scope of meaningful policy discretion, EU immigration controls remain secondary to national ones.

Consider also what many consider to be the area of greatest promise in the EU: social policy. In recent years, “European social policy” has generated an enormous academic literature and considerable political attention, focusing primarily on the innovative ‘open method of coordination’ (OMC). EU member states are engaged in the OMC, which leads them to exchange information, benchmark policies, and evaluate results. Again, the academic literature is enthusiastic. Leading constitutional lawyers view this process as a striking formal innovation.<sup>78</sup> Leading policy analysts view it as a fundamental shift in the nature of regulation, if not modern state formation.<sup>79</sup> Leading political philosophers and social theorists view the consensus on social welfare as the central element in an emerging European identity.<sup>80</sup> Leading Socialists view it as the basis for balancing the ‘neo-liberal’ tendencies of the EU. Students of social policy view it as a promising road for future spillover and integration in a ‘historical institutionalist’ mode.<sup>81</sup>

Yet there is little evidence that any of this matters for policy outcomes.<sup>82</sup> Controlled empirical studies of the process of European social policy cooperation agree that its substantive results to date have been extremely modest, if present at all. There is some sketchy evidence that governments may have used the information exchange to help plan social reforms, but no solid evidence either of any impact on or policy learning with regard to substantive policy – though some studies point to the ways in which certain governments have improved their administrative procedures, perhaps in part as a result of OMC lessons. More fundamentally for our concern here, little evidence suggests the existence, viewed from

the perspective of the national governments, of an underlying problem of negative policy externalities that an EU social policy could plausibly mitigate. Studies of a potential ‘race to the bottom’ among European governments in social policy, for example, have produced little evidence that such problems are significant in the present or inevitable in the future.<sup>83</sup> As a constraint on social spending, nearly all analysts agree that domestic demographic, fiscal and policy constraints weigh larger than regional interdependence or policy-making externalities. Moreover, given that the central issue facing European governments is how to consolidate and stabilize welfare systems, it is unclear that any European social policy – except a neo-liberal one – is justified. Finally, to the extent that there are policy externalities to social policy, there is no agreement on the distributional implications of such a policy. To take only the simplest aspect, how would a European social policy balance the claims of rich and poor countries? To be blunt, to what extent should European intervention in social policy aim to redistribute wealth toward a German worker and to what extent toward a Polish one?<sup>84</sup> The inability to overcome these challenges explains why, although there is considerable discussion of social policy in Europe today, concrete progress and the range of realistic proposals are modest.

This is not to dismiss concerns about spillover entirely. Issues with potential for forward movement surely exist. Perhaps fiscal policy coordination among Euro countries, anti-terrorism policy, and the General Services Directive might generate unintended or unwanted consequences of significant size—though the argument remains to be made. Some other issues, most notably certain aspects of defense or immigration, might generate pressures strong enough to motivate governments to expand the scope of integration. Yet even in these areas, no serious analyst sees a medium-term prospect of centralizing policy in Brussels, and the major reason for this is the lack of functional pressure.

## **B. The Institutional Dimension of the European Constitutional Compromise**

The absence of opportunities for substantive expansion in EU policy-making on a scale required to alter its constitutional order is further assured by the institutional dimension of the European constitutional compromise. Institutional constraints on EU policy today go far beyond the fact that wealthier member states, notably Germany, are less willing than in the past to provide modest side-payments to facilitate interstate bargains.<sup>85</sup> Constraints are embedded in the very essence of the EU’s constitutional order, which impose exceedingly tight limits on policy innovation – thereby rendering change through either everyday policy-making or constitutional revision quite unlikely. The EU, to a first approximation, does not tax, spend, implement or coerce and, in many areas, does not even hold a legal monopoly on public authority. This limits the issues it can possibly subsume, absent a unanimously approved redesign of its structure far more fundamental than anything contemplated at the recent constitutional convention.<sup>86</sup>

The EU is not simply unwilling to act in new areas that require coercive, fiscal or human resources; it is constitutionally unable to do so, even as a result of unintended consequences. The EU has no police, no army, no significant intelligence capacity – and no realistic prospect of obtaining any of these. Even if the most ambitious plans currently on the table in European defense were fully realized, the EU would manage only 2 percent of European North Atlantic Treaty Organization (NATO) forces – and these forces could be

employed only for a narrow range of peace-keeping ('Petersburg') tasks. Any deployment can take place only with the consent of the home countries – a 'coalition of the willing' approach that makes current efforts to create joint European military forces as intergovernmental commitments as consistent with NATO as with the EU. Fiscal constraints will mean some rationalization of defense procurement, yet the EU does not envisage thereby gaining control over military spending. Similarly, although the EU helps to coordinate efforts to combat international crime, the structure of national police, criminal justice, and punishment systems remains essentially unchanged – save for some information sharing.

The ability to tax, spend, and redistribute wealth is the pre-eminent activity of the modern state. Yet the EU does little of it. EU taxation is capped at about 1.3 percent of the combined gross national product (GNP) of its members and is substantially below that level now. It represents only about 2 percent of the public spending by European national and local governments (as compared to 70 percent of US public spending by the federal government). EU funds are transfers from national governments, not direct taxation; and their disbursement is directed to a small range of policies like the CAP, regional funds and development aid – leaving little room for discretionary spending by Brussels technocrats. (Efforts to develop such a capacity were cut back by member states.) Even in areas of EU fiscal activity, such as agriculture, most public funding remains national. France is the biggest CAP beneficiary, but national sources provide two-thirds of French farm spending – often enough to counteract EU influence where desired. None of this can change without the unanimous consent of the member states.

Of course, great power resides in the ability to oversee the implementation of detailed regulations, even if non-fiscal, but we must ask: Who implements most EU regulations? Not, in most cases, the Brussels bureaucracy. The EU's employees, who number less than 30,000 – of which 4,000–5,000 are real decision-makers – constitute a workforce no larger than that of a medium-sized European city. They number about one-fortieth of the non-military federal workforce in the US, a country noted for the small size of federal civilian employment. So the task of implementing EU regulations falls to national parliaments and officials. Thus, while it is hard for such governments to avoid compliance permanently, they can shade it to benefit this or that domestic group, and delay it for years.

The EU is thus condemned in perpetuity to be what one scholar terms a 'regulatory polity' – a system with instruments of regulation, but little fiscal discretion.<sup>88</sup> Moreover, though this is not the preferred outcome of many who analyze the EU as a regulatory polity, it is currently condemned to delegate back to member states the implementation of its own regulations. Both aspects are critical because the most important issues that remain in the hands of national policy-makers – issues such as social welfare provision, health care, pensions, defense, education, and local infrastructural policy – all involve both discretionary taxation and fiscal capacity, as well as complex systems of bureaucratic monitoring and implementation.<sup>89</sup> The only major exception to this rule concerns the actions of the ECJ, whose policy autonomy is in fact expanded by the constraints on EU decision-making. Still,

the ECJ is itself limited by political and legal constraints imposed by member states, as its recent, more cautious approach to certain problems suggests.<sup>47</sup>

### **C. The Normative Dimension of the European Constitutional Compromise**

There are those who argue that spillover will emerge not simply because the stability and success of existing policies demands new substantive policy coordination, or because delegation to autonomous centralized institutions encourages it, as neofunctionalists argued, but because the success of the EU has now provoked an unintended crisis of democratic legitimacy. In this view, the EU must democratize or decay.

It is not hard to see why the EU appears to many commentators to be democratically illegitimate. Only one branch of the EU is directly elected: the EP. The EP is weaker than national counterparts, and its elections are decentralized, apathetic affairs, in which a small number of voters act on the basis of national rather than EU concerns. The European Commission is widely perceived as a remote technocracy. The ECJ, with fifteen appointed judges, is unusually powerful by the domestic standards of most European countries. Most powerful among Brussels institutions, the Council of Ministers assembles national ministers, diplomats and officials, who often deliberate in secret. Right-wing critics believe the EU is infringing on personal liberty. Left-wing critics view the EU as a throwback to the fiscally weak, neo-liberal state of the nineteenth century, which legally constructed markets with a limited range of balancing social policies.

Legitimacy has two meanings with regard to the contemporary EU – one philosophical and one practical. Some use it to designate the extent to which the EU is consistent with basic democratic principles, others to refer to the level of support and trust for the EU among European publics. The conventional view today, held with redoubled force after the referenda, is that the EU has a ‘double’ legitimacy crisis, and that crises in each of the two areas are related, because the weakness of public support follows from the lack of philosophically defensible democratic credentials. Critics of current EU institutions, both among Europhiles and Europhobes, argue that EU decision-making is both unstable and illegitimate because it is not based on direct democratic consent. For the past half-decade, this has been the most widespread public argument for fundamental constitutional reform of the EU. It was on the basis of such beliefs, more than anything else, that the recent constitutional convention was called.

The criticism that the EU is democratically illegitimate rests on questionable foundations. As regards abstract democratic legitimacy, most critics reach negative conclusions by comparing the EU to idealized conceptions of Westminsterian or ancient-style democracy, rather than the real-world practices of the national democracies the EU would replace. Abstract democratic legitimacy must be judged using reasonable and realistic

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<sup>47</sup> In the scholarly literature, much has been made of this area of neofunctionalist policy-making in a sea of intergovernmental agreement – another example of the ‘selection on the dependent variable’ bias in the scholarly literature. Whereas this exception merits closer attention, it does not fundamentally alter the prognosis for the basic trajectory of the EU’s institutional evolution.

criteria. No existing government lives up to abstract, utopian standards of imaginary republics. It is far more reasonable to adopt the following standard: is EU governance as democratic as the (presumptively legitimate) domestic decision-making procedures of its member states in dealing with similar issues? When we rephrase the question this way, the claim that the EU is democratically illegitimate is unsupported by the evidence. This conclusion holds, I argue, no matter what mainstream philosophical conception of democracy one starts from: libertarian, pluralist, socialist, or deliberative.<sup>90</sup>

## 1. The Libertarian Critique

Some question the stability of the European Constitutional Compromise from a libertarian position. The libertarian conception of democracy, dating back to John Locke and others in early modern Europe, views it as a means to assure limited government by checking the arbitrary and corrupting power of the state. For libertarians, the European Constitutional Compromise has created a Brussels ‘superstate.’ This is not just a figment of the tabloid imagination. Arbitrary rule by national and supranational technocrats – ‘bureaucratic despotism’ in Brussels, as Oxford academic Larry Siedentop puts it in *Democracy in Europe* – is a widespread concern among free marketers and libertarian conservatives.<sup>91</sup>

Yet the European superstate is an illusion. The European Constitutional Compromise imposes exceedingly tight constraints on policy – combining elements of the consensus democracy of the Netherlands, the federalism of Canada, the checks and balances of the US, and the reduced fiscal capacity of Switzerland. We have already seen that the EU, broadly speaking, does not tax, spend, implement, coerce or, in most areas, monopolize public authority. It has no army, police, and intelligence capacity, and a miniscule tax base, discretion on spending, and administration. As for constitutional change in the EU, it requires unanimity, often with public ratification, in the member states – a standard higher than any modern democracy except perhaps Switzerland. Such a system is deeply resistant to any fundamental transformation to basically alter the ‘regulatory’ nature of the European state without broad consensus among a wide variety of actors. This is why the EU only influences between 10 and 20 percent of European policy-making. And this is unlikely to change.

Even more importantly, from the Lockean perspective, the EU’s ability to act (even where it enjoys unquestioned legal competence) is constrained by exceptional checks and balances among multi-level institutions. The EU is not a system of parliamentary sovereignty but one of separation of powers, with political authority and discretion divided vertically amongst the Commission, Council, Parliament and Court, and horizontally amongst local, national and transnational levels. The Commission must propose (by majority), the Council of Ministers must decide (by supermajority), European parliamentarians must assent (by absolute majority) and, if the result is challenged, the European Court must approve. National parliaments or officials must then transpose directives into national law, and national bureaucracies must implement them. Overall, this makes everyday legislation as or more difficult to pass as constitutional revision would be in most advanced industrial democracies. Only the exceptional interdependence of European states, which creates important convergence of interest, makes legislation possible at all.

While this should be enough to assuage the doubts of libertarians, it is important not to go to the opposite extreme and argue that we need not worry about European integration because the EU is so weak. The EU is in fact quite strong in many areas, as in market regulation, monetary policy, trade negotiation, anti-trust and anti-subsidy policy, agricultural policy, industrial standardization and environment policy – in which regulatory activity in Brussels, Luxembourg or Frankfurt dominates European policy-making. Are these activities under legitimate democratic oversight? This query leads us to the next conception of democracy.

## **2. The Pluralist Critique**

Many question the stability of the European Constitutional Compromise from the perspective of a pluralist conception of democracy, which stresses the need for EU activities to be accountable to and representative of popular views. To them, the EU policy process, even if under broad constraints, seems unduly to favor national bureaucrats and ministers at the expense of parliaments and publics. In some matters, moreover, semi-autonomous supranational authorities, such as the ECJ, the European Central Bank (ECB), and the Commission's Directorate-General for Competition, wield considerable autonomy and discretion. These long chains of delegation dilute the impact of public pressure. Overall, the lack of direct democratic participation seems to imply that the EU is an insulated cartel of supranational and national technocrats bent on regulating citizens free from public scrutiny. This, it is argued, can introduce a form of arbitrary rule into the EU that is objectionable not because it is extensive, as libertarians would argue, but because it is biased.

Yet the EU employs two robust mechanisms of democratic oversight: direct accountability via the EP and indirect accountability via elected national officials in the Council. Over the last two decades, the EP has been supplanting the Commission as the primary interlocutor vis-à-vis the Council in the EU legislative process. The EP now enjoys the right, late in the legislative process, to accept, reject or amend legislation in a manner difficult for the member states to reject. The EP is directly elected by proportional representation within nation-states, and often acts independently of ruling national parties. The EP, which tends to reach decisions by large majorities, is most active in precisely those areas where public preferences are strong, such as environmental policy, oversight of the Commission, and social policy.

Indirect accountability, exercised through the European Council, the Council of Ministers, and national implementation, plays an even more important role in assuring accountability. In the European Council, now consolidating its position as the EU's dominant institution, elected national leaders wield power directly – setting the agenda for the EU as a whole. In the Council of Ministers, which imposes the most important constraint on everyday EU legislation, permanent representatives, officials and ministers act under constant instruction from national executives, just as they would at home. In countries that have made it a priority, such as Denmark, national parliaments consider many EU policies before they are legislated. All countries are free to do the same and, as we have seen, member states enjoy considerable discretion as regards implementation of EU rules.

The impact of these direct and indirect channels is multiplied by the checks and balances inherent in the EU system. The 25 national democratic systems have impact primarily through the Council of Ministers and secondarily through the European Parliament. The European Parliament intermediates interests through directly-elected politicians organized into supranational political parties and increasingly heavily lobbied by interest groups. The Commission, which enjoys a unique power of proposal for most economic regulation, represents technocratic continuity, and is also itself the center point of conflicting pressures from national governments and trans-nationally active interest groups. The member states are charged with implementation, thereby bringing local concerns and national bureaucratic and political pressures to bear. The court system tends to represent economic interest groups disadvantaged by national regulations. All these groups have access to the process.

A corollary of this sort of cross-cutting accountability is openness. In contrast to the impression of a cadre of secretive Brussels gnomes, EU officials in fact work under transparency and public scrutiny more intense than that found in almost any of its member states. With twenty commissioners and their staffs, fifteen national delegations, over six hundred parliamentarians, hundreds of national ministers and thousands of national officials, ex ante parliamentary scrutiny in some countries and ex post parliamentary scrutiny in nearly all, and the ultimate need for domestic implementation, there can be no such thing as a monopoly of information in the EU. The EU legislative process works slowly and openly, with no equivalent to ruling by executive decree or pushing legislation swiftly through a friendly parliament. Recent comparative research reveals that the EU's regulatory process is as transparent and open to pressure from interested parties as those of either the US or Switzerland.<sup>92</sup> The EU system may be unfamiliar to its citizens, but it is hardly closed. 'Sunshine' reveal documents, newspapers widely report deliberations, and the near total absence of discretionary spending or bureaucratic adjudication almost eliminates common incentives for corruption. Constant scrutiny from twenty-five national governments, combined with the lack of discretionary finance, renders the EU less corrupt than almost any national government in Europe. Recent scandals, often cited to demonstrate the extent of EU corruption, are exceptions that prove the rule. When appointed a commissioner some years back, for example, Edith Cresson – a former French prime minister with a record for sleaze – was unceremoniously removed from office when she could not withstand the glare of Brussels' transnational political culture.<sup>93</sup>

Some pluralists might object that the EU relies too much on power delegated to autonomous technocrats and judges in order to resolve essentially political questions involving the sensitive apportionment of cost, benefit and risk – as in the case of the central bank and constitutional court. Yet there is little that is distinctively 'European' about this pattern of delegation. Political commentators agree that the late twentieth century has been a period of the 'decline of parliaments' and the rise of courts, public administrations and the 'core executive.' Democratic accountability in such bodies is imposed not simply through indirect control through majoritarian institutions, but also through complex systems of indirect representation, selection of representatives, procedural norms, and precise balances among branches of government. The key point for understanding European integration is that EU judges and technocrats enjoy the greatest autonomy in precisely those areas – central banking, constitutional adjudication, criminal and civil prosecution, technical administration and economic diplomacy – in which many advanced democracies, including

EU states, also insulate themselves from direct political contestation. The same Europeans who challenge the democratic legitimacy of the EEC tend to criticize the unwillingness of Americans to pass “fast track” trade legislation—even though the insulation of both institutions has similar functional roots. The EEC is, in this sense, “fast track” for post-war Europe.

These functional similarities between delegation in domestic and EU settings suggest that political insulation of certain decisions is no historical accident. Most non-majoritarian institutions have been created in the EU and elsewhere for compelling reasons. Some non-majoritarian institutions are designed to provide greater efficiency and expertise in areas where most citizens remain ‘rationally ignorant’ or non-participatory, as in the case of expert bodies. Other non-majoritarian institutions dispense impartial and equitable justice, rights, and entitlements for individuals and minority groups, as in the case of constitutional courts, which are often seen as defending individual or minority prerogatives against the immediate ‘tyranny of the majority.’ This tendency has spread in recent years as increasing numbers of governmental functions have been recognized as human rights that are judicially or administratively enforced, often at the international level. Some delegated or non-majoritarian institutions help redress biases in national democratic representation, particularly where government policy can be captured by narrow but powerful interest groups who oppose the interests of majorities with diffuse, longer-term, less self-conscious concerns. Free trade is the most obvious example. Many of the same Europeans who criticize the democratic deficit also call for the US to retain ‘fast track’ authority to pass trade liberalization – nothing less than empowering the US executive to act with minimal legislative constraint. In such cases, the EU is more representative of public preferences precisely because it is less directly democratic. On this account only one major EU institution stands out as problematic: the ECB. The ECB enjoys more political independence than any national exemplar, even though the technical (optimal currency area) justification for the bank itself is weaker. This implies that some counterweight to the ECB might be justified. The accountability of the EU is not simply theoretical; it is manifest in the absence of evidence that the EU imparts an illegitimate bias on European policy-making. Pluralists may quibble about this or that quality of EU institutions, yet to judge by the output, it is difficult to find places where the resulting bias is significant. The EU appears to act largely consistently with mobilized mass public opinion. Where such opinion is engaged, as on environmental issues, genetically modified organisms, foreign policy, and other issues, the EU appears responsive. The scope of its activities, save for a defense policy many Europeans favor but appear reluctant to fund, also conforms to their views.

### 3. The Social Democratic Critique

Our consideration of the libertarian and pluralist critiques makes it clear that the EU does not suffer from a lack of political constraints. It is, in fact, a consensual decision-making system hedged about with “veto players.” A far more plausible critique is thus that the EU has *too many* checks and balances, not too few, and that this renders its policy unresponsive to some important interests. In this view, the EU does not tyrannize Europeans, and its regulations reflect consensual pan-European interests. Yet it consistently *underregulates* because in many areas, because it cannot muster a pan-European consensus. At the same time, the consensual nature of policy-making leads to a tyranny of the *status quo*, a

set of policies that are unsupported by a majority of Europeans. Many, it might be argued, would be eliminated, were it not for the super-majoritarian and consensual rules required for any change in EU policy-making. In practice, the policies against which such a system might plausibly be biased are those that are redistributive in nature, because they are both controversial and not currently part of the EU's mandate. In this view, Europe is stuck in a "joint-decision trap," as discussed earlier in this paper.

This is the institutional essence of the social democratic critique of the EU. Social democrats maintain that the unaccountability of the EU creates a strong neo-liberal bias. Here the concern is not that the EU is too strong, as libertarians fear, but that it is too weak. This social democratic critique – drawing on a tradition that dates back to Joseph Schumpeter and Karl Polanyi – begins by noting that most Europeans favor maintaining current levels of welfare spending, as demonstrated by the tendency of member states to spend increasing percentages of GNP on welfare as per capita income increases. This ideal cannot be realized today, it is alleged, because of the tendency of market competition to generate a 'race to the bottom' in regulatory protection between countries. Such fears of 'social dumping' underlie much anti-EU sentiment, especially in the social democratic polities of Scandinavia and northern Europe.

While this criticism is at least more plausible than the libertarian fear that the EU is a regulatory superstate squelching markets and growth, it is nonetheless exaggerated. Where the EU is active, there is little evidence of a regulatory race to the bottom. Instead it has tended to set standards for environmental and consumer protection at a high level. Even where the EU is not active, the best analyses of this question, such as that of German social scientist (and Social Democrat) Fritz Scharpf, conclude that there can be such a race to the bottom in only a few areas, that there is little evidence that it has yet occurred, and where it may have, the effects are limited. Overall, the level of welfare provision in Europe remains relatively stable. National welfare systems are no longer moving strongly in the direction of greater redistribution, but neither are they imploding. Perhaps most importantly for the social democratic critique, the bulk of recent research suggests that the adverse impact of globalization on social spending in Europe (pensions, medical care and labor market policy) is not great. Far tighter constraints on social spending are imposed by domestic economic, demographic and fiscal trends: the shift to a postindustrial economy, lower productivity growth, declining demand for less skilled workers, and rising costs of health care and pensions. In sum, given the current preferences of European electorates, the EU and national governments, taken together, appear to provide an accountable and representative multi-level system of policy-making.

#### **4. The Deliberative Democratic Critique**

This leads us to a final democratic ideal around which one might expect a critical backlash to form: deliberative democracy.<sup>94</sup> Even those who concede the existence of limited government and democratic accountability in the EU often criticize the European Constitutional Compromise for failing to promote the transnational political parties, identities and discourses that might help render European political participation more active, extensive and meaningful to the citizen. This view is related to widespread support among

political philosophers for more ‘deliberative’ or ‘strong’ democracy in the belief that it will reconnect to the political process an apathetic and passive citizenry.

The deliberative democratic critique of the EU rests on the curious premise that the creation of more opportunities for direct participation or public deliberation would automatically generate a deeper sense of political community in Europe or, at the least, muster greater popular support for EU institutions. As a general claim, there is good reason to doubt that this is the case. No correlation exists between the democratic pedigree and popularity. ‘Insulated’ institutions – constitutional courts, some regulators, police forces – are often the most trusted and popular with the public. Legislatures are generally disliked, to put it charitably. And the EU itself has not increased in popularity with the significant expansion in the powers of the EP over the past five years. Even if increased participation were desirable, it is unlikely to occur. European voters do not fully exploit their current opportunities to participate in existing European elections. Nor have they shown much interest in efforts to include ‘civil society’ in the workings of the constitutional convention. Research suggests that this is not – as the deliberative critique implies – because they believe that their participation is ineffective or that institutions like the EP are unimportant. Institutions are not the problem. One is forced to conclude that it is because they do not care.

Why are they apathetic? The most plausible reason for apathy is that the scope of EU regulatory activity tends to be inversely correlated with the importance of issues in the minds of European voters. Of the five most salient issues in European societies today – health care, education, law and order, pension and social security policy, and taxes – none is primarily an EU competence. Amongst the next ten issues in the minds of the public, only a few (managing the economy, the environment, and the issue of ‘Europe’ itself) could be considered major EU concerns. In contrast, the affairs of the EU – trade liberalization, agriculture, removal of non-tariff barriers, technical regulation in environmental and other areas, foreign aid and foreign policy coordination – tend to be of low priority in most European polities. Monetary policy lies somewhere in the middle. The central problem of deliberative democracy is thus to give voters sufficient incentive to care about EU politics and deliberate about it intelligently. In a world without salient issues, new institutional avenues for participation, such as referendums and constitutional conventions, do not necessarily encourage rich deliberation by an engaged population. Instead they lead to unstable plebiscitary politics in which individuals have no incentive to reconcile their concrete interests with their political choices. This is the lesson of referendums on recent treaties. Consider the Irish referendum on the Nice Treaty, in which public opinion shifted by dozens of percentage points in response to offhand statements by the Commission president, driving citizens in one of the countries that benefits most per capita from EU membership to vote against an innocuous document. Ignorance was so great that the slogan ‘If you don’t know, vote no’ carried the day. This is no way to inspire serious democratic deliberation – or a perception of legitimacy.

The recent episode of constitution-making can be seen as a grand political experiment to test whether democratization of the EU is required, or whether the European Constitutional Compromise is stable in the face of criticism. The explicit reason for holding a constitutional convention was precisely the hope that it would circumvent haggling and national vetoes and activate instead a broad public mandate. European federalists in the

Spinelli tradition hoped finally to realize their dream of an active and engaged pan-European citizenry. Pragmatists hoped to combat rising apathy and cynicism towards the EU by radically simplifying the Treaty of Rome, more clearly delineating national and central prerogatives, and creating opportunities for democratic participation. Everyone gambled that an open, web-savvy twenty-first-century reenactment of Philadelphia in 1787 would engage citizens and politicians of all stripes, sparking an epochal public debate on the meaning and future of the EU. It is increasingly clear that this democratic experiment was a failure, despite the utterly reasonable content of the constitutional draft. The constitutional convention attracted little public interest, the result was modest, and the political costs now threaten to sink the entire project. Few Europeans were aware of the convention's existence, and only a handful could explain what happened there. When testimony from civil society was requested, professors showed up. When a conference of European youth was called, would-be Eurocrats attended. So the task of preparing a constitutional draft was left, as tasks so often are in EU affairs, to parliamentarians, diplomats and Brussels insiders. Two hundred *conventionnels* came, they deliberated and, sixteen months later, little had changed.<sup>95</sup>

The resulting document is conservative: a constitutional compromise that consolidates a decade or two of creeping change. European governments took few steps toward democratizing the EU, beyond a continued expansion of the powers of the EP. Those who mobilized were disproportionately extreme Euroskeptics with intense anti-European feelings, who exploited public ignorance to breed conspiratorial suspicion among largely apathetic but broadly pro-European publics. And now, despite the modesty of the constitutional treaty, politicians are being forced to pay back their borrowed public support with interest, as they guide the proposed document through national referendums.

To transform the EU into an active participatory democracy, it would be necessary to give Europeans a far greater stake in creating new political cleavages based on self-interest – as occurred historically in past episodes of democratization. Amongst the most plausible proposals of this kind is that by Philippe Schmitter of the European University Institute, who proposes that agricultural support and structural funds should be replaced with a guaranteed minimum income for the poorest third of EU citizens, a reform of welfare systems so as not to privilege the elderly, and a shift in power from national citizens to immigrants. This is a coherent scheme for reinvigorating European democracy targeted at the groups most dissatisfied with European integration today – the poorer, less well-educated, female, and public sector populations. Yet Schmitter's proposals have a Swiftian quality about them. (No wonder he coyly calls them 'modest proposals.') Such schemes would surely succeed in 'democratizing' the EU, but only at the expense of its further existence. The impracticality of such schemes demonstrates the lack of a realistic alternative to current, indirect forms of democratic accountability. Proposals of this kind would achieve prominence – but only at the cost of the EU itself.

All this signals once again the stability of the EU's constitutional order. The EU generates opposition in forums, such as referenda, that offer a nearly cost-free opportunity—both in terms of transaction costs and policy outcomes—to express an opinion. The last time EU policies played an important role in a national election, however, was in the 1965 French elections, where 15% of farmers came out in opposition to de Gaulle's policies, which appeared to threaten the CAP. The EU is a salient enough concern

to generate sporadic protest, but it does not appear salient enough to generate concentrated opposition, let alone a major shift in partisan political cleavages.

#### **IV. CONCLUSION**

We have seen that sequencing has played a major role in historiographical and social scientific debates about the nature of European integration. However, those theories that accord the most powerful role to “path dependence” in the integration process are poorly supported by the historical data. And, whatever their relevance in the past, the advent of the European Constitutional Compromise suggests that “path dependent” evolution is even less likely to occur today.