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1

Introduction: from Rags to Riches

Daniel Naurin and Helen Wallace

The starting point

With its country membership almost doubled after an elapsed time span of less than a half-decade, and facing yet another stage of efforts expended towards reforming its operating rules, the European Union (EU) of presently 27 members is currently undergoing a period of transformation, albeit not for the first time. In recent years, many practitioners and commentators have speculated that the EU was at a risk of ending up trapped in a gridlock in the face of the challenge of incorporating 12 additional members from May 2004 onwards. Such concerns have been at the heart of the discussion surrounding treaty reforms, both in regard to the Constitutional Treaty, which suffered two adverse referenda during 2005 in France and the Netherlands, and to the efforts to rescue this failed ratification through the Treaty of Lisbon, signed in December 2007.

The central constituent in the EU's working procedure is the Council of the European Union (or the Council of Ministers, as it is referred to in everyday vocabulary). It is arguably the most powerful of the institutions involved in the day-to-day decision-making of the EU, since it constitutes the primary arena in which key negotiations are played out among member governments. An array of proposals laid out in the recent Treaty of Lisbon aims to alter the ways in which the Council of Ministers and the European Council operate. Not least for this rationale, it is all the more important that our understanding of the Council should be well anchored in sound empirical evidence and rigorous analysis. The present volume strives to achieve precisely this goal by bringing together in a single monograph some of the most significant among recent contributions to the scholarly research on the Council. The chapters that follow thus look at the evolution of the Council over recent years, offering many insights not only into the deeply entrenched, conventional patterns of behaviour, but also into recent and ongoing trends.

Research into the workings of the Council of the European Union has reached a new phase of sophistication. Previously, the study of negotiations

in and around the Council was generally hampered by the scarcity of information about the inner workings of the Council, with hard data sorely lacking, and soft data scattered and fragmentary. Scholars in the field nonetheless sought to shed light on what might be going on, partly by developing a range of formal models, and partly by building up the repository of qualitative studies. However, it was hard to integrate the different approaches or to develop debate among scholars with different methodological and theoretical assumptions. The temptations to engage in stylized confrontations of approaches were all too seductive, and more often than not the substantive discussions were confined within the boundaries of one approach or another, rather than being more widely shared.

Fortunately, this situation has recently been transformed. The range of available data has grown enormously, even though there are still many dark corners waiting to be revealed. The number of academic researchers working on the Council has significantly increased. In part, this reflects a widespread recognition that the Council is of utmost importance in the institutional system of the EU, and hence that we need to do a better job of improving our collective understanding of how it really works. However, the burst of interest also indicates a sense that with sustained endeavour, there may be a real chance of breakthroughs in our understanding: theoretical, methodological and empirical. Against this backdrop, we can perhaps even look forward not only to more robust explanations of how the Council works, but also to more plausible predictive analysis. These aspirations gain added cogency in a period when the membership of the EU has expanded from 15 member states to 27 (as of January 2007), with concomitant debates in the world of practice about the viability of the inherited institutional system and about the prospects for institutional reforms. Moreover, as the research field has expanded, it has become increasingly evident that there is a much enhanced potential for pulling together the emerging findings and insights from recent and current studies.

This volume therefore seeks to capitalize on this new richness in a deliberately ecumenical fashion. The authors come from a range of different schools of analysis and intellectual approaches, and also include both more senior and more junior scholars. Overall, we have four main aims. The first is to encourage an investment in pooling the emerging data on the Council, both quantitative and qualitative, in a more systematic fashion than hitherto. The hope is that a collective effort can be expended to build a cumulative resource for current and future scholars, with a widely accessible repository of shared and increasingly accurate information, as well as a clearer identification of where the gaps are that might be filled by further research. A start has been made with the creation of a dedicated website at www.councildata.cergu.gu.se, which already hosts datasets and links for a number of individual and collective projects. The second aim of the volume is to identify fruitful combinations of precision and nuance that can be made

by drawing on the approaches and findings of different kinds of scholarship. We indicate a number of these in this introductory chapter, in particular under the headings of coalition-building, consensus, deliberation and leadership. The third aim is to promote more active debate and indeed mutually informed argument among those who scrutinize the Council through different kinds of lenses. Some of that debate has been included within this volume in the hope that much more may follow. The chapters by Heisenberg and Schneider specifically address this issue, but across the chapters there are cross-references to the debates in the literature. The fourth aim is to move on from a better understanding of the Council as such to richer accounts of the Council's role in its wider setting.

The chapters in this volume mainly focus on the inner workings of the Council (at ministerial and official levels of interaction). Yet all of the authors recognize that these form part of a denser tapestry of interaction with other EU institutions and with the politics of the member states. Many of the points identified across the volume need to be fed into the wider research agenda in EU studies, and not only those which are mainly focused on institutional dynamics. As the case study chapter by Pollack and Shaffer demonstrates, there is a great deal to be learned from the careful mapping of decision-making in specific policy domains, both as policy regimes are initially framed and as they are subsequently implemented. Interestingly, their study shows some quite different features of the Council from those generally identified, in particular with respect to consensus norms. More mapping is needed of other policy domains in order to gain a clearer understanding of what can be regarded as typical and as untypical patterns. Important features to look out for in this respect, all of which are addressed in this volume to some extent, include the stability and content of political cleavages, the roles played by formal rules and informal norms, by political ideologies and bureaucratic procedures, and by national and European identities, the impacts of opacity or transparency on the way politics is played out, and the forms of power exercised in the complex games which governments play in Brussels.

The state of the data

A big investment has been made in recent years in improving the state of the available data on decision-making in the Council. Partly, this stems from the new transparency arrangements of the Council itself. On the one hand, these include the posting of a wealth of data on the Council's own website, <http://www.consilium.europa.eu>, where records can be found of ministerial-level meetings, in particular press releases, agendas, minutes and the monthly voting statistics (on explicitly recorded votes). This material goes back fairly thoroughly to 1998, with some limited further details on the previous few years. On the other hand, the Council Secretariat is also able to release (in response to reasoned requests) a good deal of supplementary material,

including, for example, some documentation from meetings of lower level working groups. Material for earlier periods may be accessible either for the very early years in the officially released archives or on request. However, the Council's record-keeping system has become much more systematic only over the past decade. Thus, for earlier periods, a good deal of material (not in electronic form) still awaits attention and careful scrutiny. Some material, especially on the 1960s, has been the subject of exploration by historians.

The scholarly community has responded with some vigour to this newly accessible data. A significant range of studies have now been undertaken on the explicit voting data, on the co-decision procedure with the European Parliament, and to a more limited extent on trawls of the minutes of meetings for complementary material. Hagemann's work on statements in the records by dissenting member governments at Council meetings is an example in this sense, and is reported in her chapter in the present volume. The challenge here will be to develop systematic time-series data that will enable us better to understand trends and variations over time, as well as to deepen the use of this material in order to shed light on both differences between member states and differences across policy domains.

Alongside these official data there now exist the results of a number of collective and individual data compilations which are made available for further analysis. The Decision-Making in the European Union (DEU) project, reported *in extenso* in Thomson et al. (2006), and the Domestic Structures and European Integration (DOSEI) project (see, for instance the special issue of *European Union Politics* 2005, 6(3)) are fine examples of combined efforts to develop pools of data on the policy positions of member states and other actors. Several authors in this volume draw on the DEU dataset. Naurin and Lindahl's ongoing project of collecting survey data on cooperation and communication patterns over time in the Council working groups, reported in their chapter, is another example. Much more remains to be mined from these various official data and large-scale scholarly datasets.

This notwithstanding, there is a good deal of missing data and material. In particular, there are no systematic data on failed decisions, to wit proposals that have been implicitly or explicitly rejected in the Council. Nor do we have systematic records of how agreement is formed at levels of negotiation among officials in advance of ministerial meetings, where some decisions subject to the qualified majority voting (QMV) provisions are taken by identifying implicitly or informally favourable majorities. In this respect, we are reliant on qualitative studies of individual cases, examples of which are represented in this volume by Aus, Lewis and Niemann. Additional process-tracing research is clearly needed of other policy cases and other periods, on the basis of which a more cross-sectional picture will hopefully emerge. One startling omission is the absence of detailed work of this kind on the Common Agricultural Policy (CAP), despite its clear importance both over time, going back to the 1960s, and in the volume of decisions taken in this

domain. A particular lacuna is the limited research on how 'the shadow of the vote' operates as a mechanism, namely the processes of 'implicit' voting whereby effective majorities are established in Council negotiations which lead to agreed decisions being taken and without dissension being explicitly recorded. Golub (1999 and 2006) has made an interesting effort to infer from statistical evidence that this is a widespread phenomenon (see also König 2007). Further work is needed, however, to investigate how the process works.

Overall therefore, the quality and cogency of recent research on the Council constitute a huge improvement on earlier years. The contributions to this volume illustrate just how much can be achieved by way of added value as the investment in better theorizing, data-collecting and data-exploitation gathers momentum. We have selected what we believe are some of the most important research themes being dealt with among researchers in the field. These concern the decision rule (consensus norms or formal voting rule), coalition-building, modes of interaction (strategic, reason- or norm-driven), and the impact of the formal and informal institutional structure on the exercise of power and leadership – factors which shape preferences, and shape how preferences are aggregated into decision outcomes. We have invited authors who would, we knew, make interesting contributions. In making this choice we have put emphasis on ensuring a variety of methodological approaches, as well as theoretical and empirical perspectives and arguments. All the selected themes are to some extent contentious in that they inhabit debates – methodological, theoretical and empirical – among scholars.

Coalition-building

The first section of the book is concerned with coalition-building and conflict dimensions in the Council. A common view in the literature on the Council has traditionally been that there are no 'fixed' alignments of member states in the negotiation processes, but that coalitions shift from issue to issue. It has been widely assumed that no particular conflict dimension – such as the Left-Right dimension which often dominates national politics, or a pro-anti European integration dimension, or geographical dimensions (which could be based on regional preference clusters or cultural identity factors) – structures the interactions between the governments in the Council in a dominant way. This assumption has produced a picture of the Council as an ad-hoc problem-solving machinery, focusing on the concrete issues of the day and debating each issue on a case by case basis.

The release of the Council minutes and voting records to the public, backed by the new data collections based on interviews which have been compiled by researchers, has dramatically improved the possibilities of further investigating these issues. For example, studies based on the DEU data have demonstrated that preferences are not randomly distributed between the member states. Some patterns can indeed be found with respect to the

preferences and interests entering the negotiation process. In particular, prior to the 2004 enlargement, a North-South dimension was identified, in which Northern member states appeared to be clustered somewhat apart from the Mediterranean states (Thomson et al. 2004; Zimmer et al. 2005; Kaeding and Selck 2005). Some early evidence from the post-enlargement period, based on the same type of data, seems to confirm that geographical preference patterns are also present after the accession of ten new members in 2004 (Thomson 2007).

The chapters by Mattila and Hagemann in this volume analyse to what extent preference patterns are also visible at the output-end of the negotiation process, namely at the voting stage. Using the Council monthly summaries, Mattila has previously analysed voting patterns in the EU-15, finding similar North-South patterns to those in the DEU data. In his contributed chapter, he focuses on voting after the 2004 enlargement. Has the Big Bang enlargement to include ten new member states impinged on previous alignments? And has it raised the overall level of conflict in the Council?

Mattila finds that this has not been the case. The share of contested decisions has not increased in the first few years after enlargement and is still remarkably low. No less than 90 per cent of the acts during the period were consensually adopted. The coalition patterns in the EU-25 also resemble the EU-15 patterns in the sense that the most visible conflict dimension is again North-South. On the whole, Mattila concludes that the accession of ten new member states in 2004 has not changed the voting patterns in the Council in any major way.

Hagemann, on the other hand, argues that the enlargement has indeed brought about changes in Council decision-making, which are apparent also in terms of voting behaviour. Her research is also based on the public Council records, but her dataset differs in some respects from Mattila's. First, while Mattila registers only the final stage votes, Hagemann also includes intermediate votes during the legislative process as well as the formal statements that member states can attach to the Council minutes. Second, whereas Hagemann includes only legislative decisions, Mattila takes account of all types of Council decisions.

Interestingly, Hagemann does not find any North-South pattern in her data from the period preceding the 2004 enlargement, as earlier studies have. Instead her data indicate more of a Left-Right pattern, which is especially visible in the finding that domestic government changes, mainly occurring from Left to Right wing during this period, make member states shift positions accordingly in the Council coalition space. After the 2004 enlargement, however, this pattern disappears and Hagemann's data also show some indication of a geographical clustering, although this is less structured and distinctive compared to the findings prior to enlargement.

With respect to the level of contestation, Hagemann finds that although member states usually avoid registering their discontent by abstaining or

voting against a legislative act, as also demonstrated by Mattila, the number of formal statements attached to the minutes is at a relatively high level in the first years following enlargement. It may be that formal statements have increasingly become an accepted and useful measure for governments – which do not want to go so far as to block a decision – to signal their divergent preferences. In this way the ‘culture of consensus’ (which will be analysed further in some of the subsequent chapters) can be upheld in the face of increased preference heterogeneity, while governments still get to exercise some voice.

While the DEU data captures the input into decision-making in the Council (preferences or initial positions), Mattila and Hagemann study the formal output (votes, formal statements) registered in the Council records. Apparently, as shown by the divergent conclusions drawn by Mattila and Hagemann, the results on the output side are sensitive to precisely which type of data is being used. We do not yet know exactly where the differences originate – whether it is the formal statements or the different types of Council acts in the datasets. It may well be the case that making a formal statement to the records involves a different strategic choice (voice without obstruction) compared to no-votes and abstentions, which thus produces the different patterns. It could also be that voting is the most public and politicized type of behaviour, which may trigger more of a partisan logic. Generally, the reasoning behind member states’ choices to cast no-votes, abstain, make a formal statement or just remain silent, is a subject which is not yet well understood and where further research is needed.

The third chapter in this section, by Naurin and Lindahl, instead looks at the negotiation process between initial bargaining positions and final votes. Naurin and Lindahl interviewed a large number of negotiators from all member states in 2003 and 2006, inquiring with whom those negotiators most often cooperated in order to develop a common position. Cooperation patterns, Naurin and Lindahl argue, in contrast to preferences and votes, also capture the social activity of coalition-building, which is perpetuated in Council negotiations.

Nevertheless, their main finding is a familiar one. The North-South dimension predominated in 2003, and is evident also in the enlarged EU in 2006. In the latter case, however, the longitude (North-South) dimension has been complemented by a latitude (East-West) one. The cooperation patterns in the enlarged EU are in fact strikingly similar to a map of Europe. Adding to previous studies, Naurin and Lindahl also offer a picture of what the centre-periphery perspective looks like in the negotiation networks. The big states (including the famous Franco-German axis) are clearly at the centre, indicating that larger size not only means more formal votes, but also tends to yield more ‘network capital’.

An important issue for future research within this theme is to scrutinize further the content of the geographical patterns. Geography is obviously only

a proxy for some underlying concept. The reason why Danes usually prefer to cooperate with the Dutch rather than the Portuguese hardly has anything to do per se with their latitude position on the globe. Some have started this work of determining which factors produce these patterns (Thomson et al. 2004; Mattila 2004; Zimmer et al. 2005; Naurin 2007a), but the findings are thus far rather inconclusive.

Consensus

The voting records thus provide a rather peaceful picture of the Council proceedings. Only in a minority of cases do member states register discontent with the decisions taken. In fact, the level of formally registered conflict is so low that it becomes a methodological problem for the voting-based studies of coalition patterns. A lot of the 'action' in the Council is left outside the public records, as pointed out by Heisenberg in her chapter. However, since data on 'implicit voting' and 'failed decisions' are not included in the official records, the level of contestation is probably higher than can be inferred from the Council minutes. In this respect, we lack systematic quantitative data. Later in this volume Pollack and Shaffer describe – through a case study of the issue concerning genetically modified organisms (GMOs) – what conflict and deadlock in the Council may look like in practice.

Nevertheless, it is clear that the Council prefers to negotiate agreements rather than to proceed to voting, and that the negotiations frequently are successful in the sense that agreements are concluded. This fact constitutes the key research question for the subsequent two chapters. König and Junge in their chapter, and Aus in his, both address the 'rationalist puzzle' according to which the Council frequently manages to reach agreement on issues where veto player theory would have predicted no-votes and deadlock. In order to analyse this puzzle, however, they choose very different research strategies, and also end up at different conclusions. While König and Junge continue to defend rationalist interest-based explanations, Aus argues that more attention to the logic of appropriateness may help to solve the problem.

König and Junge consider two potential explanations for the poor performance of veto player theories in predicting Council consensus. First, they ask whether the problem is one of mis-specification of the models, whereby important variables may have been omitted. In particular, no veto player models hitherto applied to the Council have considered the possibility of issue-linkages, even though this is an often mentioned feature of the Council according to the textbooks. König and Junge introduce a model which takes into account the possibility that the member states trade support for different issues on the basis of different degrees of salience. Second, they address the possibility that the problem is a more general one, inherent in the assumptions of the theory: if actors behave according to a non-calculative

logic of appropriateness, informal consensus norms may tilt the outcome away from the model predictions.

König and Junge analyse these questions by combining the DEU data on Council decisions and the preferences of the member states on a range of policy issues with voting data from the Council minutes. The veto player models predicted a rejection of the Commission proposal in about half of the 48 cases, but the Council in fact reached agreement to accept the proposal in all cases. Thus, they find that although all the veto player models – including those taking salience into account – fail rather miserably in predicting collective decisions, they are doing somewhat better with respect to individual voting behaviour. However, even for the individual votes the error rate is substantial. The authors conclude that further specifications of the veto player models with respect to the identification of the agenda-setter and the introduction of possible omitted variables such as salience and voting weights will not improve the models' ability to predict Council decisions. They also refute, however, the critical suspicion that this has to do with 'a general misconception of decision-making incentives' on behalf of rational choice theory. As evidence, they demonstrate that there is very little variation in the degree of consensus between different member states and policy domains in their dataset.

So what does explain the unexpectedly high level of consensus? König and Junge recommend us to search for 'more general incentives for cooperation', which may be found in the complex committee system of the Council and the different kinds of bargains which are offered at different levels of this system. Others, like Aus in the following chapter, and also Heisenberg and Lewis in this volume, emphasize informal consensus norms as a key factor omitted in the veto player models. Such norms, these authors assume, may be general rather than domain- and country-specific as understood by König and Junge.

Aus, in his chapter, shows how this may work in practice. The key turning point in the story of how the Council reached agreement on the Dublin II regulation on asylum policy, as described by Aus, was when the Danish Presidency deliberately activated such an informal norm, by deciding to launch a 'silent procedure' in order to break the deadlock. According to this procedure the regulation would be considered as adopted if no one had objected to it at the end of a time period set by the Presidency. In practice the Presidency gave the recalcitrant Greeks and Italians a week to stand up and say 'No'. But raising objections during the silent procedure, according to Aus, would be seen as inappropriate. It would be a violation of 'how things are done' in the Council, where you should try to avoid standing out as a troublemaker. The case is especially interesting as it demonstrates not only that informal norms may be important determinants of behaviour, but also how such norms can be used as instruments for rationally calculating actors (the Danish Presidency in this case).

Deliberation

Consensual decision-making, thus, is a key characteristic of the Council, although the sources of consensus are debated among researchers. But what type of consensus is created in the Justus Lipsius building? A strong trend in democratic theory for some years has been to emphasize the value and importance of deliberation as a way of producing consensus and creating legitimacy for collective decisions. Democratic politics, according to this view, should be more about giving good reasons than forcing or striking deals. Deliberation means trying to reach agreement through the force of the better argument – convincing others of the right thing to do – rather than bargaining via threats and promises. Bargaining, according to normative deliberative democratic theory, is a perfectly legitimate way of reaching agreements in the marketplace. But we should not buy and sell public policy. In politics – at the forum – arguing is the morally superior way of interaction.

The success of deliberative democratic theory within political philosophy has increasingly been followed up by empirical researchers. Although empirical research cannot properly ‘test’ the normative claims of the theory, it can test its relevance to the real world. EU scholars have engaged in this task and some important contributions are present in this book, seeking answers to questions like: To what extent is the Council a deliberative body? Are Council decisions best described as ‘reasoned consensus’ or as ‘deals’? Under what circumstances are arguing and bargaining more prominent as modes of interaction?

These questions – and the methodological challenges that come with them – are addressed in different ways in the chapters by Niemann, Pollack and Shaffer, and Lewis. Niemann dives deep into a detailed process-tracing of two specific negotiations (the Article 113 Committee’s negotiations on the 1997 World Trade Organization (WTO) Basic Telecommunications Agreement, and the 1996–97 Intergovernmental Conference (IGC) Group of Representatives negotiations on the scope of the common commercial policy), using interviews, public and non-public documents and direct observations. Pollack and Shaffer, on the other hand, make a broad overview of the Council’s involvement over 20 years in one policy field (the regulation of GM foods and crops), based on publicly available sources and interviews. Lewis summarizes the results of a long range of interviews with Council actors that he has been conducting over a period of eight years (1996–2003).

As a consequence of endorsing different research strategies, the difficult questions concerning definitions and operationalizations of the key concepts of arguing and bargaining are also approached differently in the three studies. Niemann’s narrow conception of deliberation – aiming at distinguishing ‘sincere arguments’ from strategic rhetoric – necessitates a close study of actors’ motivations. Pollack and Shaffer use a more blunt measure, focusing mainly on the level of conflict and the willingness of member states to modify their

positions. Lewis distinguishes not only between strategic (utility-following) and non-strategic action, but also attempts to show in practice the difference between a logic of appropriateness (norm-following) and a logic of arguing (reason-following).

The clearest common finding of the three contributions is that it is difficult to generalize with respect to the status of the Council as a deliberative body. Deliberation certainly happens, but only under specific circumstances. In particular, the level of politicization is important. Although deliberation by its normative proponents is designed to be a method for conflict resolution, there is a clear limit to how much conflict this mode of interaction can manage. Especially when conflict reaches the public arena positions tend to stiffen and a tougher bargaining attitude comes to the fore. Whether this is a disappointment or not could be discussed. On the one hand, if one believes in the normative value of deliberation, this mode should not be confined to the resolution of merely technical, low visibility issues. On the other hand, the relationship between deliberation and representation is a delicate one. From a democratic accountability point of view we would not want to see ministers with clear mandates from their constituents being too soft on their positions.

While not being contradictory, on some points the findings of the three studies speak to each other and suggest modifications. For example, one of the 'conducive conditions' for deliberation which Niemann points at – to wit the degree of uncertainty and complexity of the issue at hand – should probably be re-specified in the light of the findings of Pollack and Shaffer. Technical complexity and factual uncertainty may, as was clear in the case of GM foods and crops, be fully compatible with political certainty and fixed preferences, which ultimately drives political actors.

However, these three contributions to the 'deliberative turn' of EU studies should be seen as 'plausibility probes', as Lewis puts it, rather than systematic tests of conditional factors potentially determining the level of deliberation. The next step within this field is to develop research strategies for conducting such tests. Choosing empirical indicators will (as always) entail a delicate balance between generalizability and fidelity to the theoretical concepts. The studies presented here have provided the groundwork for this research task.

Leadership

The ability of the Council to reach decisions in the face of increasing preference heterogeneity and cultural plurality is a key issue for students of the Council. König and Junge on the one hand, and Aus on the other, discuss the relative importance of rational vote-trading and informal norms of appropriateness for inducing member states to reach agreement. Another factor potentially contributing to steering negotiations towards efficient outcomes are institutional actors, such as the Presidency, the Commission and the Council Secretariat. Tallberg and Beach, in their chapters, both argue that a

functional logic of negotiating efficiency can explain why delegation of leadership power from member states to such actors has occurred. In contrast to liberal intergovernmentalism, where it is assumed that the negotiating parties are perfectly capable themselves of finding efficient agreements, Tallberg and Beach point at transaction costs and potential negotiation failures. The institutional actors can contribute leadership in the Council with the effect of 'oiling the wheels of compromise' (Beach), by means of mediation and agenda-setting.

However, oiling the wheels may not be the only thing these agents do. Both Tallberg and Beach emphasize that the leadership they provide is biased rather than neutral. Tallberg argues that the rotating Presidency has developed into a real power platform in the Council. In effect, it allows the member state holding the chair six months to take advantage of privileged informational and procedural resources that make it possible to steer negotiations toward the agreements it prefers.

In his chapter, Tallberg outlines a rationalist theory of delegation of leadership power to the chairmanship in multilateral bargaining games. While solving collective action problems of agenda management, brokerage and representation, the delegation also creates opportunities for the appointed leader to exploit information asymmetries and procedural privileges for private (national) gain. In a series of case studies from 1999–2002, Tallberg illustrates how this is done in practice, and also how decision-making rules may condition the influence of the chair. In these cases, he argues, the Danish, Finnish, French, German, and Swedish Presidencies 'succeeded in shifting outcomes in their own favour' on issues concerning enlargement, institutional reform, environmental policy, budgetary policy, and foreign policy.

Warntjen, on the other hand, makes a direct challenge to Tallberg's claims of the power of the Council Presidency, which he believes are exaggerated. To assume that the member states of the EU-15 would have had an implicit deal on getting to exploit each other every seventh year is unreasonable, he argues, and becomes even more so in the enlarged EU of 27. Instead the procedural power actually delegated to the Presidency is limited, according to Warntjen. The member states have secured the collective benefits of leadership, while at the same time narrowing the Presidency's room for manoeuvre.

In a formal analysis of the procedural powers laid down in the Presidency in the Council Rules of Procedure, and a comparison with those of the Speaker of the US House of Representatives, Warntjen lays out his case. He argues that the Council Presidency does not have agenda-setting power in the rational choice meaning of the term of having a monopoly on making proposals. Instead the member states have chosen to grant the Presidency a limited form of proposal power, which they have not given treaty status. The Presidency has a louder voice than the others during its term in office, but is certainly no policy dictator. Tallberg responds that Warntjen's critique is 'the product of an

unnecessarily narrow understanding of influence and at odds with important empirical evidence', the latter being referred to in his chapter.

Beach in his contribution does not deny that the Presidency in many situations is an important facilitator of agreements in the Council. Like Warntjen, however, he questions the assumption that the member states have accepted an order where they each in turn get to dominate the others. In particular, according to Beach, there is a lack of trust in the big states as Presidencies, which makes them handicapped as leaders. Furthermore, smaller states may lack the resources in terms of expertise and bargaining skills to provide leadership on many issues.

Instead, according to Beach, the Council Secretariat, although small and with few formal powers, may take the place of the Presidency as provider of the leadership necessary for avoiding negotiation failures and deadlocks. The Secretariat has both the expertise and the trust that the member states often lack. A text coming from the Council Secretariat is more acceptable, other things being equal, than one originating in London or Paris, according to Beach. Furthermore, the Secretariat is there all the time, not just for six months every thirteenth year.

But the Council Secretariat is not just a neutral assistant, Beach argues. It is a bureaucratic actor with an interest in strengthening its role and capacities in the decision-making process, in particular by watching over the competences of the Council vis-à-vis the European Parliament and the Commission. In his previous work Beach has demonstrated his argument with respect to treaty reform negotiations. In this chapter, he describes two new case studies of bargaining in the second and third pillars of the European Union: the 2005 negotiation of financing for the Common Foreign and Security Policy (CFSP), and the negotiation of Eurojust within the third pillar in the late 1990s and early 2000s. Interviews and primary and secondary documentary sources are used to demonstrate the impact of the Council Secretariat in these negotiations.

Tallberg, on the other hand, is sceptical towards the claim that the Council Secretariat provides leadership in the EU. He suggests that the Council Secretariat 'constitutes a central resource at the disposal of the Presidency', but does not agree that it should be seen as 'an independent source of leadership' in the EU.

A point that emerges in these contributions is that political vacuums or ambiguities can provide space for exploitation by political actors, sometimes in unexpected ways. Beach's account of the Council Secretariat's role in framing parts of the decision-making process is not about formal powers, but about the ability to intervene cogently. On this point it would be valuable to explore the impact of the Council Secretariat in other domains and to compare the recent impact of the Secretariat with that of the Commission in cognate areas and in previous periods. In a similar vein both Tallberg and Warntjen (from different standpoints) shed light on the varying ways

in which the Council Presidency confers influence (but subject to limits) on member states holding the office.

Finally, Thomson considers another possible source of leadership, namely the dominance of the big states. A classic realist view of the Council would assume that the big member states are in control, while smaller states and supranational institutions have little room for manoeuvre on issues of high political importance. Is this a reasonable starting point for understanding how leadership is exercised in the normal day-to-day proceedings of the Council? Naurin and Lindahl found that big states not only have a stronger formal vote, but are also more centrally placed in the negotiation networks. Does this mean that the big states always get what they want? Do smaller states' preferences weigh at all in the negotiations?

Thomson demonstrates that they do. He uses the DEU data on policy preferences, and a modelling approach where different alternative power distributions are tested. It emerges that trying to predict the outcomes of Council negotiations without considering small states' preferences gives significantly worse predictions than when their preferences are counted. Interestingly, the smaller states' impact seems to be larger under QMV rather than under unanimity rule, when all states formally have equal (veto) power. Thomson also analyses a new data collection of the same type as the DEU from after the enlargement of 2004. Again, it is clear that the new (and mainly small) member states' preferences must be considered in order to predict negotiation outcomes in the Council.

Thomson concludes that the Council is not permanently dominated by any group of member states. It seems that the old pluralist slogan that 'all actors can exercise influence on at least some issues, some of the time', applies in the Council. It is not difficult to see the importance of such a state of affairs for the legitimacy and long-run stability of the European Union as a whole.

How best to study the Council?

One important source of strength of the new wave of research on the Council of the EU, on which this volume seeks to capitalize, is the plurality of methods, theories and empirical data being used. This book in itself contains research based on in-depth case studies of single decisions, process-tracing of negotiations over time, formal analyses and advanced statistical analyses of hundreds of decisions and individual behavioural acts and opinions. The empirical data include direct observations, qualitative interpretative interviews, expert informational interviews, surveys, primary and secondary documentary sources, cross-sectional and over time.

Pluralism naturally also implies debate. One of the aims of this volume is to highlight contentious issues and encourage discussion, which can hopefully clarify the state of the field and point to future directions for further research. Some of the debates are issue-specific, and concern different

empirical findings based on different types of data or theoretical definitions and assumptions. Others are more general and familiar from international relations and comparative politics at large, such as the ever-present tension between rational utility-maximizing approaches and theorists emphasizing the importance of endogenous preferences and identities and logics of appropriateness for explaining political behaviour (for excellent introductions into the different perspectives applied to the EU – rational choice and constructivism, neo-institutionalist versus policy-oriented approaches, comparative versus *sui generis* theorizing – see Jørgensen et al. 2006).

The last two chapters of the book include an explicit methodological debate on how best to study the Council of the EU. Heisenberg is worried about the growth of formal modelling and rational choice approaches, relying on a routinized and narrow conception of human behaviour, and quantitative methodologies in studies of the Council. In her view, the status of the political science discipline in the United States should serve as a deterrent example. The ‘science’ has overtaken the ‘political’ to such an extent, according to Heisenberg, that it has ‘estranged US academic political science from reality so much as to have little to contribute to solving the problems of the day’. This is not the way to go for EU research. Furthermore, the *sui generis* nature of the Council and the lack of data on the factors actually driving decision-makers in the Council (‘attitudes, preferences, informal norms, established practice, country history’) make doubtful the value of applying quantitative methodologies.

Reviewing some of the most cited recent work on the Council, Heisenberg finds that qualitative empirical work is better both at generating policy-relevant research questions and at answering them. The exceptional and idiosyncratic nature of decision-making in the Council calls for qualitative theorizing and thick descriptions of empirical case studies, which invite readers to evaluate the interpretation of the data. While formal works tend to obscure the institutional uniqueness of the Council decision-making norms, according to Heisenberg, quantitative work depends on systematic generalizable data which simply do not exist. The failure of the formal and quantitative approaches is illustrated by the fact that the DEU project so far has contributed few innovative findings or new insights about the workings of the Council. In Heisenberg’s view, it has mainly confirmed findings generated by previous qualitative work (such as the importance of the ‘culture of consensus’).

Schneider defends the turn to ‘normal science’, as he puts it, in the research on the Council. As editor of the journal *European Union Politics* and main investigator in the DEU project, Schneider has been a leading promoter of the trend towards more systematic and often but not necessarily quantitative testing of formally derived hypotheses. The underlying assumption of strategic rationality in the game-theory models is well-justified, Schneider argues, and he predicts that these models will play a key role in the future

study of the Council. In his opinion, it is a relief that the field has now largely left behind the previous 'inconclusive debates over unwieldy topics such as the uniqueness of the European Union' and is firmly engaged in systematic comparative research and explicit hypotheses testing. We can do, and we are doing, Schneider argues, both the 'political' and the 'science'.

Schneider is critical towards the sample of studies on which Heisenberg focuses, which he believes does not accurately mirror the status of the field. He is also not impressed by her suggestion that 'we knew it all before', which he thinks reflects a tendency to generalize from ad hoc observations. Heisenberg's critique that formal rational choice approaches can neither generate nor answer the important questions in the field is countered by Schneider in a listing of research findings which he argues are pertinent to exactly those questions raised as 'missing' by Heisenberg.

The tone in the two contributions is not always very forgiving, reflecting strong convictions. In this sense, the ecumenical ambitions of the editors were perhaps not completely successful. On the other hand, this methodological debate is common, but usually only heard in conference corridors and at department coffee breaks, and seldom brought to the fore in such an explicit and systematic way. Hopefully, we have had a clarification of the arguments, which leaves the reader to decide which path is most fruitful. And we have definitely enjoyed the blossoming of biological metaphors. While Heisenberg strongly denies that the best way to analyse elephants is to compare their trunks with worms (implying that the Council is *sui generis* and must be studied as such), Schneider sees little value in being on a first-name basis with laboratory amoebas, regardless of how special they are.

The Council in the EU system

Recently, the roles and practices of the Council have been thrust into the spotlight of public and academic scrutiny for two main reasons. One is that institutional reform of the EU has been the subject of fierce argument over the past few years. The other, and perhaps related, reason is that the membership of the EU has grown rapidly from 15 to 27 member states, with enlargement to 25 in 2004 and to 27 in 2007. These concerns have to be set in the broader context of how the institutional system of the EU operates as a whole.

The main focus of the chapters in this volume is on the internal workings of the Council rather than on its inter-institutional relationships with either other EU institutions or with the home governments of the member states. Thus, the volume's primary contribution is to provide us with a more nuanced understanding of the Council itself, and it remains for further research to examine the 'so what' consequences for inter-institutional relationships. Several issues emerge as ripe for further exploration. These include: whether or not (and if so how) coalitions spread across EU institutions (for example, how does increasing politicization along the Left-Right dimension

in the European Parliament affect the mainly geographical interaction patterns in the Council?); what kinds of distinctions can be made as regards institutional behaviour and outcomes among the different 'pillars' within the EU's legal and procedural order; what evidence can be found of inter-institutional competition within the EU; and what kinds of distinctions can be drawn between the more consensual areas of collective decision-making and the more contested.

As regards coalition-formation, as König and Junge suggest, we need to examine more closely the relationship between Commission proposals and agenda-setting, on the one hand, and at how the Commission exploits potentially favourable coalitions in the Council, on the other. This dog hardly barks in the chapters of this volume, although traditionally Commission entrepreneurship and brokerage are often argued to be key ingredients of the 'Community method'. As regards the distinctions between pillars, contributors to this volume report paradoxical findings. It seems to be the case, according to Aus, Beach and Niemann, that in some very intergovernmental areas the Council is surprisingly efficient, in the sense of finding ways of proceeding to agreed outcomes, whereas in what ought to be much more 'communitarized' policy areas, contestation may be endemic and prolonged, as Pollack and Shaffer suggest. On the issue of inter-institutional competition, this volume valuably sheds further light on the roles and influencing capacity of both the Council Presidency and the Council Secretariat (see chapters by Beach, Tallberg and Warntjen). Yet the findings of these chapters need to be scrutinized in relation to the opportunities for the Commission to exercise framing and mediating influences. To the extent that either the Council Presidency or the Council Secretariat can be argued to be critically influential on one occasion or another, in what ways is this phenomenon linked to either structural or contingent features of the Commission's role? Many chapters in this volume address the question of how far the Council should be understood as a consensus-oriented institution or one in which contestation is endemic. The contribution by Pollack and Shaffer addresses a policy issue subject to recurrent and protracted contestation, not only within the Council but in the inter-institutional exchanges with the Commission and the EP, and not only at the decision-forming stages but also as decisions are taken into the implementation phase. Their work suggests that further deep case studies of other policy domains are needed, and that we need to follow more closely examples of Council-Commission interaction in the efforts to implement contested policies.

As regards the political debate about institutional reform within the EU, different camps can be identified in the world of practice. At one end of the spectrum are those who seek to strengthen the political autonomy of the EU by reinforcing its more supranational features and by making it easier for more decisions to be reached on a more majoritarian basis. At the other end of the spectrum are those who have been keen to retain the scope for

the Council as far as possible to be the decision-maker of last resort and for individual member states to maintain their scope for safeguarding precious national preferences or reservations. The demise of the Constitutional Treaty arose from this argument, and the 2007 negotiations leading to agreement in Lisbon in October 2007 on a modified Reform Treaty¹ reflect this continuing argument about where the so-called 'institutional balance' should be struck within the EU.

By and large our chapters suggest that practice in the Council and its relationships with the rest of the EU system consist of a mixture of formal rules and informal practices. Behaviour evolves over time and at least as regards the Treaty of Nice (agreed in 2000 and implemented in 2003), no major effects are reported as a result of the rule changes embodied in that treaty. Of course, formal extensions of the powers of the European Parliament (EP) do have specific impacts by changing the relative roles of the EP and of the Council in, for example, the legislative areas subject to the co-decision procedure. However, the very important relationship between the Council and the Commission seems to be much less a function of formal rules than it is the product of negotiated arrangements and text-processing or linked to the salience and controversiality of particular policy issues. Aus argues, for example, that agreements can be and are reached even in a policy area as tricky as Justice and Home Affairs (JHA) in the absence of strong institutional mechanisms, as long as other favourable conditions are present and can be mobilized through informal processes. This echoes Lewis's insistence on the importance of informal processes across the range of policy sectors.

Among the most contentious issues in the political debate has been the question of the relative power of different member states in the EU system and particularly the alleged impact of different rules for establishing majorities in the Council. This is a topic that has attracted attention from the academic community as well as much media commentary. Our authors are generally sanguine on this issue. Explicit voting is relatively infrequent and almost certainly does not give us hard evidence about either the nature of contestation or about relative success. As König and Junge argue, the multi-dimensionality of contestation and the reluctance to express explicit opposition do not enable us to establish a clear picture of how negotiations proceed. Probing into the detailed patterns, it seems, according to Thomson, that smaller member states do indeed have the opportunity to influence outcomes, but more by exploiting informal resources and through contingent coalitions than by the use of the formal voting rules. This is so even though Naurin and Lindahl report that negotiators from the larger member states are more centrally positioned in the negotiation networks. Moreover, the Council presidency allows opportunities to both larger and smaller member states to exercise leverage. Thus narrowly defined assertions about one particular decision rule or another seem much less interesting than the detailed examination of the circumstances in which particular kinds of decision are reached

on particular kinds of issue and with what patterns of influence exerted by which member states.

As regards the impact of recent enlargements, many practitioners had feared that the serial enlargement that produced the EU-27 risked generating gridlock in the EU and especially in the Council. The evidence of our authors tends categorically to invalidate this fear. Hagemann and Mattila, with slightly different cuts on the data, show on the contrary that since 2004 the Council has pretty much been characterized by 'business as usual', although Hagemann reports that dissenting entries in the Council minutes have become more common. The trends of explicit voting remain broadly similar to those that preceded enlargement, although our explicit voting datasets unfortunately do not stretch back before 1995 – more work remains to be done here. What is reported in our volume is also consistent with other work (Best and Settembri forthcoming; Dehousse et al. 2006; and Wallace 2007) on this topic, which also suggests that the levels of 'productivity' of the Council remained similar in the EU-25 to those in the EU-15 – it is too early to have available solid data on the more recent arrival of two further member states in January 2007.

Conclusions

For a long time EU scholars have complained about the lack of systematic empirical data on what is going on inside the Council. Our textbook knowledge of what is happening in the EU's most important legislative and decision-making institution has to a large extent been based on anecdotal evidence. One reason has been the closed nature of the Council. The lack of transparency was justified by the need for secrecy during negotiations.

In a very few years, however, we have gone from a situation where the Council really was the black box of the EU, to the state of play today, where we have a whole range of superb qualitative and quantitative data collections, case studies, cross-sectoral and time-series data. This means that EU researchers are better equipped than ever before to analyse the decision-making processes of the Council and to test conventional wisdoms. They can analyse questions such as: Which conflict dimensions structure the interactions between the member states in the Council? What type of bargaining is going on? What is the level of contestation? What are the important bargaining resources? Who has power and how is power exercised? What are the mechanisms of conflict and consensus? How effective is the institutional machinery in producing legislative output from this complex set of interests, ideas and power resources which is the European Union? And above all, what is the effect on all this of such dramatic events as the Big Bang enlargement in 2004?

Scholars can and are doing that, as demonstrated in this book. The effect will be important, not only with respect to our knowledge of the Council

itself – and therefore of EU politics in general – but also because this research is advancing general theories of bargaining, power and modes of interaction in international institutions, for which the Council is a particularly fruitful object of study.

Notes

1. For the full text of the Reform Treaty the reader is directed to the website <http://www.consilium.europa.eu/uedocs/cmsUpload/cg00014.en07.pdf> (date of last access: 16 December 2007).

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