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# EU Treaty Reform in Theoretical Perspective

An Empirical Exploration of Liberal Intergovernmentalism and Historical Institutionalism

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## Abstract

Today, several theoretical perspectives compete for attention in the debate on European integration. Thus, there is a need for empirical exploration of the various theoretical frameworks. This study uses the Intergovernmental Conference 2000 to test the usefulness of liberal intergovernmentalism and historical institutionalism. Initially the bargaining situation is considered, after which the outcome of negotiations is analyzed. The assessment indicates that both analytical perspectives provide valuable insights. Liberal intergovernmentalism presents assumptions about the importance of member states and the intensity of their preferences, which to a large extent are supported by the empirical evidence. The historical-institutionalist emphasis on past events and unanticipated consequences of previous decisions is valuable in highlighting important structuring elements. Nevertheless, the theoretical frameworks are still not capable, on their own, to provide a complete understanding of the process. The liberal intergovernmentalist theory is somewhat simplified, while historical institutionalism cannot account for the timing and precise contents of the reforms. A final analysis indicates that the results of the theoretical evaluation, to a large extent, are likely to be valid also for future conferences.

# 1 Introduction

Research on European integration has developed over the years. Today, the literature on the European Union is both extensive and diverse. Nevertheless, the complex character of the Union and the many possible research objects imply that there is a need for more studies. This is perhaps especially true for the kind of analysis carried out in this paper. A recent review of the field argues that theory-building predominates over theory-testing in the study of European integration, and that the empirical exploration of theoretical frameworks has not kept pace sufficiently (Begg & Peterson 1999, p. 3).

This paper tests the usefulness of two theoretical frameworks, liberal intergovernmentalism and historical institutionalism. Besides the general need for theory-testing studies, several aspects motivate the choice to explore these particular approaches. Liberal intergovernmentalism occupies a position as one of the dominant theories in the field of European integration. Still, it is not uncontested and it has been subject to criticism. The liberal intergovernmentalist theory is supposed to fit particularly well with key bargaining situations of a constitutional nature (Weiler, Haltern & Mayer 1995). To contribute to the debate on liberal intergovernmentalism, this paper will use precisely such a situation to analyze its usefulness. If the analysis indicates that liberal intergovernmentalism does not hold in this case, its explanatory power can be questioned.

Historical institutionalism has not been developed for the study of the European Union. This implies that the field is still partly unexplored and makes an examination of the empirical usefulness of the approach very interesting. In addition, due to its rich mixture of institutions, the European Union should offer a suitable testing ground. Thus, this study hopes to contribute to the knowledge of historical institutionalism in the context of European integration. If it proves to be useful in the case in question it may deserve even more attention. The two theoretical frameworks would be interesting to analyze also in separate studies. However, a study exploring both approaches at the same time offers additional advantages. Since their emphases differ it provides an opportunity for interesting comparisons.

Thus, the study will use a major constitutional bargain of the European Union to assess liberal intergovernmentalism and historical institutionalism. However, before stating the precise purpose a brief empirical introduction is required.

## IGC 2000 in Theoretical Perspective

The institutions and bodies of the European Union were designed in the 1950s, when the Community only had six member states. It has since undergone four enlargements. However, except for the introduction of direct elections to the European Parliament in 1979, there has been no major reform of the institutions since the founding of the Community. Today, the European Union is once again facing enlargement. A large number of countries applied for membership in the mid 1990s, and accession negotiations are already well underway. The forthcoming enlargement triggered extensive discussions about the need to reform the institutions of the Union. It was feared that a future enlarged Union, with preserved institutional design would no longer be efficient. Thus, improvements to the institutional framework were considered necessary to prepare for the accession.

The treaties on which the European Union is built may be changed by an Intergovernmental Conference (IGC) of representatives of the member states, convened with the objective of reaching agreement on such amendments. The prospect of a European Union with 25-30 member states led to the convening of a conference of this kind (IGC 2000). It opened on 14 February 2000 and ended with an agreement at the European Council in Nice in December 2000. The Nice Treaty, if ratified by all countries, amends the existing treaties and introduces some changes in the operation and composition of the European bodies.[1]

The purpose of this study is to use the empirical case provided by the Intergovernmental Conference 2000 to test the usefulness of liberal intergovernmentalism and historical institutionalism. The overarching research question is: *How useful are liberal intergovernmentalism and historical institutionalism in explaining the reform process that resulted in the Nice Treaty?*

The choice of the term "useful" is deliberate. The purpose is not to scrutinize the theoretical frameworks in a more orthodox sense. In line with the general scholarly view, I accept liberal intergovernmentalism as a theory and historical institutionalism as an analytical approach.[2] Instead the study aims to test the usefulness of their explanations for the understanding of processes of European integration, and more specifically the Intergovernmental Conference 2000. This is done by subjecting the assumptions laid down by the theoretical frameworks to empirical exploration.

The case of the Intergovernmental Conference 2000 is selected since it offers an appropriate ground to test the analytical frameworks. One of the major reasons for this is that the conference constitutes a potentially important interstate bargain. As noted above, liberal intergovernmentalism stresses the so-called grand bargains in the European integration process. Thus, the case of IGC 2000 provides an attractive opportunity to test the assumptions of the theory.

However, the conference is not merely suitable for an evaluation of liberal intergovernmentalism. There are also preliminary empirical observations that point to the relevance of historical institutionalism. This is the fourth Intergovernmental Conference in 15 years.[3] This observation may question the rationale for viewing the conference as a bargaining moment that can be isolated from other events. Instead it points to the potential relevance of viewing European integration as a process that unfolds over time. It also triggers the question whether certain elements in the treaty amending process do not become institutionalized, when the Intergovernmental Conferences frequently succeed each other. Institutionalization and path dependency are both factors that are emphasized in historical institutionalism.

In addition to offering an appropriate setting for assessing the theoretical frameworks, the case of the Intergovernmental Conference 2000 also has some merits of its own. This is primarily so due to the issues that were the subject of the conference. Institutional design is of fundamental importance to the very character of the European Union and its relationship with the member states. Consequently, studies that help to shed some light on how this design evolves are much desired. This need is further accentuated by the limited research conducted so far on the conference.

## Methodological Considerations

A large part of the analysis in this study is based on documents submitted before and during the negotiations by different actors. The task of collecting this material has been facilitated since the official conference documents and many of those submitted to the IGC by the supranational bodies of the Union, the member states, and the applicant countries have been made available online. In addition to this material, I have also benefited from some accounts of and comments on the conference made by various observers.

When conducting a study of this kind it is important to be aware of the associated problems. As already noticed, detailed accounts of the negotiations still remain sparse. In addition, it is always difficult to study negotiations that were partly closed. Against this background, I have considered the alternative of conducting interviews to help uncovering the course of events. However, considering the purpose of the study, I have reached the conclusion that the available material is sufficient. There is extensive documentation accessible from the conference. Moreover, the purpose of this paper is not in detail to describe every single episode in the process of negotiations, but to use it to test the usefulness of liberal intergovernmentalism and historical institutionalism. The realization of this theory testing exercise does not require an in depth account of all the events leading up to the Nice Treaty, but instead necessitates a certain degree of simplification to delineate their overall usefulness.

Even if the study does not demand a detailed description of all the aspects of the reform process, it would still be too extensive to cover all the issues that were discussed during the conference. Consequently, I have chosen to limit the evaluation of the theoretical frameworks to an analysis of three major issues. In the paper, I will focus on the processes preceding changes in the size of the Commission, the weighting of votes in the Council, as well as the extension of qualified majority voting in the same body. However, this only constitutes a limited sacrifice. In general, the Intergovernmental Conferences of the European Union have a wide agenda. Yet, in the case of the IGC 2000 it was relatively narrow. Even if the conference resulted in treaty amendments in other areas, the issues examined in this paper were clearly the main focus of the negotiations.

The liberal intergovernmentalist model can be divided into two stages. A further limitation of this study is that the analysis will only be concerned with the second stage of the model, i.e. interstate bargaining. Consequently, it is important to note that the assumptions about domestic preference formation will not be discussed.

The paper is structured as follows. Chapter two gives a brief outline of liberal intergovernmentalism and historical institutionalism. Chapters three and four apply the two theoretical perspectives to the case of the Intergovernmental Conference 2000 and examine their usefulness. Chapter three focuses on the bargaining situation, while chapter four is concerned with the outcome of negotiations. Drawing on the previous analysis, chapter five moves on to present conclusions about the explanatory power of the analytical frameworks in the case of the IGC 2000. Finally, chapter six reflects upon what general theoretical conclusions can be drawn from the study.

# 2 Theoretical Overview

This chapter provides a brief outline of liberal intergovernmentalism and historical institutionalism. The purpose of the presentation is not to give a detailed account of all the aspects of the perspectives or to illustrate how they have been applied in various situations. Instead the chapter aims at establishing the assumptions of the theoretical frameworks in the context of Intergovernmental Conferences. This is essential both to exclude what they are not concerned with explaining, and to be able to evaluate how well the empirical evidence supports their arguments. First liberal intergovernmentalism is discussed, after which some main features of historical institutionalism are laid down.

## Liberal Intergovernmentalism

Intergovernmentalist theory seeks to analyze the EU as the result of strategies adopted by rational governments acting upon their preferences and power. This paper discusses the version of intergovernmentalism advocated by Andrew Moravcsik (1993, 1995, 1998). His liberal intergovernmentalist approach adds domestic constituencies constraining their governments to the view that national governments are the principal agents driving or preventing progress in European co-operation (Risse-Kappen 1996, p. 55). The result is a two-step model of preference formation and international bargaining. In the first stage of the model, governments aggregate the interests of their domestic communities, and formulate national preferences toward European integration. In the second stage, the governments bring their preferences to interstate negotiations. The resulting agreements reflect the relative power of the member states, and supranational institutions such as the European Commission have little causal influence (Moravcsik 1993, 1998).

This paper focuses on the bargaining stage of the model. Thus, what needs to be established is how liberal intergovernmentalism explains the

bargaining in Intergovernmental Conferences. IGCs are central to most intergovernmentalist theories. A common position is that the EU ever since the Treaty of Rome has developed through a series of intergovernmental bargains. Treaty revisions are emphasized as occasions when the course of the integration process is discussed, changed and/or consolidated (Keohane & Hoffman 1991, p. 17). Liberal intergovernmentalism is no exception. The model makes several predictions about the bargaining environment and the bargaining outcomes in these situations, and the most important ones will be briefly outlined below.

Liberal intergovernmentalism makes three assumptions about the particular bargaining environment of the EU. First, states participate in the negotiations voluntarily. Secondly, interstate bargaining in the EU occurs in an information-rich setting. The environment is information-rich in two ways: there is widespread knowledge of the technical implications of policies, and states have information about the preferences of and constraints upon other states. Thirdly, the transaction costs of EU negotiations are low since the long time-frame of negotiations offers many possibilities for linkages and side-payments (Moravcsik 1993, p. 498). These conditions combine to make interstate negotiations rational, efficient and predictable. Furthermore, in the liberal intergovernmentalist view, negotiations in the EU can be viewed as a co-operative game, where the level of co-operation reflects the preferences of national governments. In the negotiations relative bargaining power, which stems most fundamentally from asymmetries in the relative intensity of national preferences, matters a lot (Moravcsik 1993, p. 499). One important implication of the bargaining on the basis of the intensity of preferences is that the need to compromise with the least forthcoming government imposes the binding constraint on the potential for greater co-operation. This means that agreements are driven toward the lowest common denominator (Moravcsik 1993, pp. 500-501).

Another characteristic feature of the liberal intergovernmentalist theory is the distinct focus on the member states. Thus, the theory stresses passive institutions and the autonomy of national leaders (Moravcsik 1993, p. 518). Still, supranational institutions are not completely ignored. Their role is however limited to increasing the efficiency of the interstate bargaining. At most, states benefit from and use the institutional environment of the EU to accomplish their various objectives, e.g. the pursuit of preferences (Rosamond 2000, p. 143). By making this analysis, Moravcsik also feels

confident to declare that the presence of the institutions is not an antithesis of liberal intergovernmentalism (Moravcsik 1993, p. 507). He goes on to claim: "Only where the actions of supranational leaders *systematically* bias outcomes away from the long-term self-interest of member states can we speak of serious challenge to an intergovernmentalist view" (Moravcsik 1993, p. 514; original emphasis).

## Historical Institutionalism

Recently there has been a renewal of interest in institutions in political science research. The emerging neoinstitutionalist literature is diverse and is normally divided into several subfields.[4] The institutionalist approach assessed in this paper is the "historical" version. Historical institutionalism did not originate in research on European integration. However, some studies have been conducted and the EU offers a potentially attractive field of application.

This paper tests the usefulness of historical institutionalism on the case of the IGC 2000. To do this it is necessary to establish the assumptions of the approach. Historical institutionalist research asserts that events need to be situated in a distinct historical, institutional and contextual setting, revealing how actors are surrounded by structuring elements (Sverdrup 1998). It is claimed that there are several such structuring factors, and they will be discussed more thoroughly later in the paper. However, for reasons of clarity some main features of the approach will be outlined already at this early stage.

One of the key assumptions of historical institutionalism is that institutions evolve in path-dependent ways. Path dependency means that a decision made at one point creates opportunities and constraints for decision-making at a later stage. The focus is on the ways earlier decisions condition further action, limit the scope of what is possible and sometimes even cause agents to redefine their interests (Schneider & Aspinwall 2001, p. 10, Thelen & Steinmo 1992). More specifically, in the context of Intergovernmental Conferences, this means that historical institutionalism emphasizes the evolution of co-operation over time and the importance of past decisions for current interstate bargaining (Sverdrup 2002)

Thus, according to historical institutionalism, member states are not always free to do as they like. Even if the states have clear preferences, they are sometimes not able to act upon them. Historical institutionalism identifies several reasons for this. According to historical institutional analysis, the member states are not fully aware of institutional consequences. Still, they often proceed with their plans. Thus, one explanation of gaps in member state control can be found in the limited time horizons of political decision-makers. Since they are often most interested in the short-term consequences of their actions, long-term effects can be heavily discounted, something that may result in losses of control (Pierson 1996). Another related reason why member states are constrained is that unintended as well as unanticipated consequences tend to be widespread (Hall & Taylor 1996). Even if the actors try to plan ahead when designing institutions, they are not likely to be able to foresee the future development perfectly.

Unlike liberal intergovernmentalism, historical institutionalism does not single out any particular actor as being the most important. Several actors can in different ways contribute to a certain policy outcome. However, what is important to note is the significance ascribed to institutions. Historical institutionalism assumes that institutions themselves are able to create impetus for policy change that exceeds mere institutional mediation (Bulmer 1994, p. 372, 1998, p. 370). Thus, according to the approach, EU institutions can affect member states' behavior by becoming autonomous actors (Pierson 1996, Pollack 1996, Gstöhl 2000, pp. 48-49). This also means that causality flows both ways, in that while agents choose institutions, institutions then also restrain agents (Schneider & Aspinwall 2001, p. 10).

Finally, something should be said about what are considered to be "institutions" for the purposes of this study. In general, historical institutionalism stresses both formal and informal institutions (Armstrong & Bulmer 1998, pp. 53-54). However, in this paper I am primarily interested in the role played by supranational bodies in the union. These are examples of formal institutions. Nevertheless, the account also includes discussions about informal institutions.

# 3 The Bargaining Situation

This chapter initiates the analysis of the usefulness of liberal intergovernmentalism and historical institutionalism in explaining the Intergovernmental Conference 2000. At this point the analysis focuses on the bargaining situation. It is important to delineate the particular environment of the negotiations, since it has significant implications for the explanations of the two theoretical frameworks. Furthermore, an inquiry into actor participation in the process is essential since assumptions about agency are important, especially in the liberal intergovernmentalist model. The chapter starts with an assessment of the assumptions of the analytical frameworks about the importance of various actors. Subsequently, the access to information and its relation to their assumptions are explored. Finally, the substance of the claims of historical institutionalism about structuring elements is considered.

## The Actors

Theorists advocating liberal intergovernmentalism conceive states as the crucial actors in the European integration process. The preferences and power of the member states are what determine outcomes. Other agents play, at most, passive or non-causal roles. There is plenty of empirical support for the view that member states were important in the process that preceded the Nice Treaty. It was the member states that decided to convene the conference. It was also the member states that after discussions at the Cologne European Council and the Helsinki European Council decided what issues to consider as well as the timetable for negotiations (German Government 1999, Finnish Government 1999).

Also the conduct of the conference was dominated by the member states. The management of the agenda and the preparation of summary proposals and compromises were carried out by national governments. In the course of negotiations the countries holding the presidency, Portugal

in the spring and France during the fall, had very important positions. They performed mediation tasks and issued documents outlining positions as well as conclusions about the progress in the negotiations.

Furthermore, the ultimate political responsibility for the IGC rested with the ministers of the member states meeting in the General Affairs Council. Ministerial meetings were held twice a month. In addition, the conference also included more daily activities by agents of the member states. The Ministerial meetings were prepared by the so-called Group of representatives of the governments of the Member States. This group met, on average, two days a week (Yataganas 2001, p. 11).

However, the most important manifestation of the member states' central position in the treaty reform process of the IGC is that they decide on the final outcome. In the IGC 2000 this was done in the Nice European Council, where the Heads of State or Government approved a draft treaty on 10 December. The member states are also particularly central since they have a right of veto over the decisions. Treaty amendments are made on the basis of unanimity, which means that the government of every member state has to approve of the reforms.

Institutionalists, on their part, emphasize that it is necessary to move beyond the unitary assumption of member states and to make greater allowance for the agency of the bodies of the Union. In their view, it would be wrong to ignore these institutions on the basis that they lack a final right of veto over the outcome of the Intergovernmental Conferences (Christiansen, Falkner & Jørgensen 2002, pp. 13-14). Instead it is stressed that the institutions may be able to shape and even reshape preferences before and during the negotiations (Falkner 2002, p. 2).

A breakdown of the conference lends some support to the view that institutions were present in the reform process. Although, as discussed above, the negotiations were dominated by the member states, the institutions were still able to present their view of the issues on the agenda. This occurred in several ways. Article 48 of the Treaty on European Union formally requires the Council to consult the Commission and the European Parliament before the Presidency may convene the conference. Accordingly, the Commission presented its own position paper at the outset.[5] In this report it expressed its support for the convening of an IGC, made proposals on the issues to be discussed, and underlined certain questions as especially vital (European Commission 2000a). The European Parliament

issued a first resolution on 3 February 2000, and presented a broader report on 27 March 2000. These documents specified the priorities of the Parliament and made proposals for the conference (European Parliament 2000a, 2000b).

Furthermore, it was not only at the outset that the institutions were able to state their opinions. The Commission, through Commissioner Barnier, attended the meetings in the Group of Representatives. Likewise, the Commission took part in the deliberations during the ministerial sessions. The European Parliament was also represented. Two observers from the Parliament were present at the meetings of the Group of Representatives and were able to intervene to express Parliament's view on the questions discussed. In addition, each ministerial meeting was preceded by an exchange of opinions with the President of the European Parliament, Nicole Fontaine.

This means that the Parliament was more involved than envisaged in the treaties. Falkner (2002), working with an institutionalist perspective, gives one explanation for this. She claims that there exists a normative understanding that the directly elected representatives of the citizens of the member states cannot be sidelined in treaty reforms. The negotiating state agents at least need to listen to their opinions, since their criticism can delegitimize the reforms (Falkner 2002, pp. 2-3). Thus, the increasing involvement of the Parliament would be a result of the development of the kind of informal procedures recognized by historical institutionalism.

Yet, these empirical observations of supranational institutions participating in the reform process would not impress advocates of liberal intergovernmentalism. Moravcsik and Nicola_dis (1999, pp. 69-70) maintain that "activity is not influence". In their view, the real question is whether such involvement alters the outcomes of the negotiations. In the case of the IGC 2000 they would for instance emphasize that the two representatives of the European Parliament were observers rather than full participants.

On the whole, the focus on governments as the main actors seems justified. But, as shown above they were not the only agents. The Commission and the Parliament were represented and thus had an opportunity to express their institutional viewpoints. The question that arises is whether their presence made a difference. Were the states influenced by their opinions and proposals, or did they anyway act solely on their own preferences and power? Another important question is whether the states were able to act as they pleased or if they were constrained by structural elements. These

issues are vital to an assessment of the usefulness of the theoretical frameworks and will be addressed later in the paper.

I will thus return to the impact of the Commission and the Parliament. One thing is however clear already at this point. The other bodies of the Union did not affect the outcome of the negotiations on the issues that are discussed in this paper. They conducted a more self-interested debate and tackled only matters that directly affected themselves (Yataganas 2001, p. 23).

## The Accessibility of Information

In the liberal intergovernmentalist theory an important assumption is that bargaining takes place in an information-rich environment. This circumstance is supposed to facilitate negotiations based on the preferences of the member states, with the implication that bargaining becomes efficient and rational (Moravcsik 1993, pp. 498-499).

A study of the conference supports the argument about the frequent possibilities to learn about the positions of the other states in the negotiations. Purposeful efforts contributed to give national negotiators easy access to information about the preferences of their counterparts. A first example is the in-depth papers submitted by the member states at the outset of the conference containing their opinions on treaty amendments. Another case in point is the work by the intergovernmental reflection group, which also contributed to providing information about the preferences of the different member states. Furthermore, during the conference, access to information was made easy by the practice of publishing material on a specific website. Thus it was always possible to review documents submitted by the other member states.

Consequently, the declarations of national governments were easy to get hold of. This also seems to indicate that rational bargaining was facilitated. However, the implications of the rich availability of information for the test of the analytical perspectives are not as clear cut as they first appear. It is possible to make an opposite interpretation. A researcher working with an institutionalist perspective could instead point to potential difficul-

ties for state control. On this reading the abundant information results in increased complexity, which actually constrains states.

Sverdrup (2002, pp. 130-131) draws the attention to two ways in which this can manifest itself. First, all the information that has to be evaluated leads to a greater dependency of national governments on the organizational and information-processing capacities of the supranational bodies of the Union. According to Sverdrup, this is especially true for the smaller member states that lack the resources of their larger counterparts. He does not make the argument explicit, but in my view this would also imply that the opportunities for the institutions to present and stress their own interests increase. There is also a second way through which the rich information flow may negatively affect the efficiency of EU bargaining. This can occur if information about a particular member state's preferences becomes contradictory. If this is the case it would counteract insights into national preferences and bargaining positions, and thus make decision-making a more complex process.

As shown, it is not completely straightforward to interpret the implications of the easy access to information. However, in my view, the institutionalist reading has some flaws. The numerous meetings between representatives of the member countries should make it possible to clear away most obscurities. Thus, the bargaining environment appears to have been characterized by relative transparency. However, it was not only the member states themselves that contributed to this environment. The supranational bodies of the Union also made significant efforts to clarify preferences. An example of this is the summaries of the proceedings of the conference presented by the two European Parliament representatives.[6] These contributions may appear to contradict another of the assumptions of liberal intergovernmentalism, namely that of the primacy of states. However, this is not necessarily the case. The liberal intergovernmentalist model allows for participation by institutions as long as they only increase the efficiency of negotiations and do not limit the autonomy of national leaders (see Moravcsik 1993).

## Structuring Elements

In the liberalist intergovernmentalist account of the EU's evolution, the integration process is driven by major state bargains. These moments of constitutional bargaining are analyzed as separate events, where preferences and power are central to the outcomes. This also means that previous agreements at most are seen as events that create new status quo (Moravcsik 1995, p. 612, Wincott 1995). In comparison, historical institutionalism has a different focus. The key assumption of path dependency implies that major emphasis is placed on past decisions. Moreover, historical institutionalism stresses unanticipated consequences and their influence on the evolution of institutions (Pierson 1996). Thus, in general, emphasis is put on the existence of elements of structure constraining actors.

Since these are central assumptions of historical institutionalism they deserve careful investigation. Accordingly, the following section views the IGC 2000 in a historical perspective to analyze whether there is any substance to the claims of historical institutionalism. The assessment is at this point concerned with the importance of previous events for the *agenda* of the conference. I will later, in the next chapter, consider the importance of past decisions for the *outcomes* of negotiations.

The Intergovernmental Conference 2000 was not in any way the first IGC in the EU. In recent years, several IGCs have succeeded each other. In fact, the Treaty of Nice is the fourth European treaty in 15 years, following the Single European Act, the Treaty on the European Union and the Treaty of Amsterdam. This means that issues that could not be resolved at one conference are not necessarily abandoned. Even if the main purposes of the conferences vary, spillovers from one IGC to the next are common.

In the case of the IGC 2000 the importance of previous negotiations was especially evident. Institutional issues were among the priorities in the preceding Amsterdam IGC in 1996. The conference was considered a good opportunity to adapt the Union's institutional structures to prepare for the accession of new member states (Finnish Government 2000). However, in the end the Amsterdam IGC proved unable to resolve a number of the most difficult institutional issues, namely the size and composition of the Commission and the weighting of votes in the Council. Yet, the EU lead-

ers decided to attach a protocol to the Amsterdam Treaty. The so-called Amsterdam Protocol promised that "a conference of representatives of the governments of the Member States shall be convened in order to carry out a comprehensive review of the provisions of the Treaties on the composition and functioning of the institutions".[7] The protocol proved to be important. As we know, a new Intergovernmental Conference was convened (IGC 2000) and the agenda to a large extent consisted of the leftovers from Amsterdam.

Furthermore, it was not only the Amsterdam Protocol that preceded what later became the negotiations during the IGC 2000. On 10 November 1999, the Commission submitted a report, in which it concluded that the IGC should concentrate on issues of an institutional nature (European Commission 1999).[8] There were also other contributions that supported an agenda focused on institutional matters. Among the most important was the report presented on 18 October 1999 by a group of experts chaired by the former Belgian Prime Minister, Jean-Luc Dehaene.[9] The so-called Dehaene Report called for a broad and ambitious approach to institutional reform (Dehaene, Simon & Weizsäcker 1999).

Another aspect rooted in historical decisions structuring the reform process was the EU treaties themselves (Christiansen, Falkner & Jørgensen 2002, pp. 15-16). Even if it may seem banal it is worth emphasizing that the IGC was about *reform* of the existing treaties and not about the creation of an entirely new system. Since there already exists an extensive framework of treaties and agreements within the EU, the member states are not always free to design institutions and construct decision-making procedures the way they want. They might prefer solutions that are unattainable considering the old choices of design.

Furthermore, an important structuring factor arose due to the institutionalization of the treaty reform process. As discussed above, several Intergovernmental Conferences have taken place in the EU. In later years they have become more frequent, consist of many participants and deal with complicated technical issues. According to Christiansen et al (2002) this has led to a bureaucratization of the treaty reform process. They even argue that a special IGC "policy community" has sprung up, consisting primarily of the IGC desk officers in the permanent representations of the member states and their counterparts in the Council Secretariat and the European Commission. Since many issues require technical expertise, this "commu-

nity" has become influential. At least partly this position has been achieved at the expense of the national governments. In addition, the institutionalization of the management of IGCs has another implication. When the reform process becomes institutionalized it is easier to revive attention to questions that have earlier been discussed. This further strengthens the image of treaty reform as a continuous process.

Another assumption of historical institutionalism is the existence of unanticipated consequences of previous decisions. In my view, the speed of the ongoing accession negotiations constituted such a consequence. The Union's enlargement process advanced more rapidly than expected (Dehaene, Simon & Weizsäcker 1999, Bradley 2001, p. 1098). Since the negotiations with the candidate countries were well advanced there was extra pressure to find solutions to the perceived institutional problems. Such was the momentum of the enlargement process, that even the provisions in the Amsterdam Protocol were overtaken. The Protocol envisaged a two-stage reform and drew a distinction between enlargement involving up to five new member states and enlargement bringing the membership above twenty. However, the success of the negotiations with the applicant countries dictated that the reforms must be handled in one single IGC.

Past decisions and unanticipated events were not the only elements structuring the bargaining environment of the IGC 2000. The timeframe set up for the conference constituted another important constraint. The negotiations were scheduled to finish before the end of 2000. This self-imposed deadline for the conclusion of the negotiations was regarded as very important (see for instance Dutch Government 2000, Austrian Government 2000). The main reason was concern that the Union would not otherwise be able to meet its commitment to take in new members. Thus, actors were pushed towards agreement and their ability to act according to their own will restrained.

Consequently, it can be concluded that several structuring elements affected the reform process. The temporal and legal constraints, as well as the institutionalization of the reform process support the arguments of historical institutionalism. Moreover, and most importantly, vital activities occurred prior to the formal opening of the IGC 2000. These past events and decisions affected both the timing and content of the conference. That past actions are shown to be important for the agenda supports the claims of historical institutionalism. It clearly demonstrates that the environment in-

cluded significant elements of structure. It also supports the view that treaty reform should be regarded as a continuous process. However, since the decisions were taken only in the last few years preceding the conference it would perhaps be wrong to draw too far-reaching conclusions about path dependency. Nevertheless, I will analyze the importance of events further back in time, when exploring the outcomes of the negotiations in the next chapter.

How do these observations affect the assessment of liberal intergovernmentalism? This significance ascribed to past events does not necessarily pose a problem for the theory. It is possible to argue that it merely focuses on a more limited time frame. In addition, researchers advocating liberal intergovernmentalism would probably argue that the same issues arose again because of stable national preferences, and because they were of enduring concern among a substantial number of countries (cf. Moravcsik & Nicola_dis 1999, pp. 71-72). Still, the importance of past actions in my view implies at least one kind of difficulty for the theory. The challenge arises since the assumption of state control during the conference can be questioned. This challenge is further underlined when considering the other structuring elements discussed above.

# 4 The Outcome of Negotiations

As indicated above, both liberal intergovernmentalism and historical institutionalism can derive some support from an examination of the bargaining situation. The previous chapter also identifies some potential problems for the theoretical frameworks. However, the value of the evaluation of the bargaining situation is limited if not accompanied by an analysis of the final results of the negotiations. This chapter reflects upon the outcomes of the Intergovernmental Conference 2000 and tests the usefulness of liberal intergovernmentalism and historical institutionalism. The issues under consideration were the main subjects of the negotiations during the conference. First, the issue of the weighting of votes in the Council is discussed. Next, I turn to the negotiations on the possible extension of qualified majority voting in the Council. Subsequently, the issue of the size of the Commission is considered. Among other things the chapter assesses the claims of liberal intergovernmentalism and historical institutionalism about the importance of different actors, the occurrence of bargaining based on issue-specific preferences and the importance of historical events and decisions for the final outcome. Finally, some concluding remarks about their usefulness in explaining the outcomes are presented.

## Qualified Majority Voting in the Council

The Council takes its decisions by unanimous agreement of all member states, by qualified majority or, in the case of procedural matters, by simple majority. Under the unanimity rule, each member state has a right of veto. Under qualified majority voting, each member state is given a certain number of votes, weighted according to its size and population. The Treaty of Rome provided for decisions to be taken by unanimity for most of the areas covered (Yataganas 2001, p. 14). Since then, qualified majority voting (QMV) has been extended to a number of areas.

The reason for introducing qualified majority voting is that it makes decision-making more efficient. It is difficult to obtain unanimous agreement in the Union. When it is enough that one country disagrees, the decision-making process is easily blocked. Thus, introducing QMV may be a way to avoid immobilization (Edwards 1998, p. 54). However, the development towards greater use of QMV is controversial. The veto also assures that all member states are involved in and support decisions affecting them. In addition, some decisions are vital and have far-reaching consequences for the member states. Hence, it has usually been considered that qualified-majority voting is not appropriate for decisions in all areas (European Commission 2000d).

In the debate on the use of qualified majority voting the enlargement of the Union has a central place. In a Council representing more countries, the probability that one of them will not support a particular policy is greater. The implications of this are especially important in the policy areas in which the Council takes its decisions by unanimous vote. To state the obvious, when the number of member states increases, the danger that one of them may exercise the right of veto increases accordingly.

The possible extension of the use of quality majority voting was one of the main issues on the agenda of the IGC 2000. What about the two theoretical frameworks and their explanatory power with regard to the negotiations on this issue? Starting with liberal intergovernmentalism, the theory emphasizes features that fit well with the negotiations. First, as the theory predicts, bargaining based on issue-specific preferences is what characterized the negotiations on the extension of QMV. Most member states agreed that unanimity would be impracticable in an enlarged EU. Thus, they declared themselves willing to accept an extension of qualified majority voting in principle. However, almost everyone wanted exceptions. Furthermore, the objections of the member states related to different areas and they had serious difficulties in agreeing which provisions should be subject to QMV (Yataganas 2001, p. 26).

The Portuguese and French Presidencies had identified around fifty articles where unanimity could be replaced by qualified majority voting. A few member states (e.g. Italy, Belgium, the Netherlands) had virtually no objections to the list, but almost all the other member states opposed at least some part of it. Thus, a period of bargaining began. The examples of strong issue-specific national preferences were many. For instance, France

wanted commercial policy exemptions for culture, the United Kingdom refused to abandon national sovereignty in taxation and social security, and Germany had strong preferences not to extend QMV to some areas in Justice and Home Affairs (Best 2001, see also e.g. British Government 2000, German Government 2000).

Furthermore, liberal intergovernmentalism also offers a good prediction of the final outcome of the negotiations. According to the theory, one implication of bargaining on the basis of the intensity of preferences is that agreements are driven toward the lowest common denominator. The reason is that the member states must compromise with the most unwilling government (Moravcsik 1993, pp. 500-501). The final compromise on the extension of QMV represents something close to the lowest common denominator (Yataganas 2001, p. 35). The reluctant member states either vetoed amendments or succeeded in introducing conditions (Best 2001). In the end, less change occurred than many had hoped for. Out of the fifty provisions initially proposed, the Intergovernmental Conference agreed that a further thirty would in the future be subject to decision-making by qualified majority (European Commission, 2000d).

Also the limited approval of the proposals of the Commission can be seen as supporting liberal intergovernmentalism. The Commission clearly advocated an approach where qualified-majority voting would be the rule and unanimity the exception. It also emphasized the importance of formulating clear and simple criteria, so that the debate could focus on broad categories rather than on individual cases (European Commission 2000a). However, when the negotiations started there was only limited support for the view that QMV should be the rule, and instead a case-by-case approach prevailed. In addition, the final list with provisions to be moved to QMV was much more limited than what the Commission had hoped for (Wessels 2001).

The failure of the Commission to get support for its opinions is also obvious from the speech made by its President Romano Prodi after the conclusion of the negotiations. Prodi (2000) was very disappointed with the perceived failure of Nice with regard to this issue. In his speech Prodi criticized not just the results of negotiations, but also the attitude of the member states. In particular, he expressed dissatisfaction with the lack of progress in tax regulation and social legislation.

Some scholars have questioned the use of state-centered approaches to

explain the increased use of qualified majority voting on general grounds (see Rosamond 2000. p. 143). The question posed is why national governments would voluntarily surrender sovereignty. However, this is something that can be accounted for by liberal intergovernmentalism. According to the model, a decision to move to qualified majority voting can be looked upon as a pooling of sovereignty. More specifically, intergovernmentalist theory views the decision to adopt QMV as the consequence of a cost-benefit analysis of future decisions expected to follow from other institutional designs (Moravcsik 1993, p. 509). Thus, unlike traditional grand theories of integration, liberal intergovernmentalism is not grounded in a realist point of departure, where states always oppose losing sovereignty (Moravcsik & Nicola_dis 1999, p. 82).

So far observations that support the assumptions of liberal intergovernmentalism have been presented. Historical institutionalists would emphasize other aspects. Most importantly, they would point to the fact that there has been a historical evolution towards greater use of qualified majority voting. As already stated, initially most decisions in the Council were taken by unanimous agreement. However, since then and especially since the beginning of the 1980s the use of qualified majority voting has been extended.

Thus, negotiations on increased use of QMV are not a new phenomenon. The three previous rounds of Treaty reform all introduced changes in Council decision-making. Under the Single European Act, the Treaty on the European Union, and the Treaty of Amsterdam QMV embraced a growing number of issues (Edwards 1998, p. 54). For instance, after the Single European Act qualified-majority voting was introduced for practically all policies relating to the internal market, and after the Amsterdam QMV was extended to employment, social exclusion, customs co-operation and data protection amongst other issues (Baun 2000, p. 182). However, the Amsterdam negotiations also included unsuccessful discussions on the extension to further provisions.

Consequently, the negotiations during the IGC 2000 on the issue did not start at square one. Instead, they must almost be regarded as part of a continuous process, where previous discussions open up for new issues to be moved to QMV. This observation lends support to an historical-institutionalist explanation. One of the underlying reasons behind this evolution is the previous decisions to agree on enlargement of the Union. The scope of qualified-majority voting has been progressively extended with each

successive accession to the EU, since states feel more or less forced to act to secure the effectiveness of the Union's decision-making. The enlargement is thus an important process influencing decisions of the member states.

## The Weighting of Votes in the Council

As discussed above, the Council nowadays takes most of its decisions by a qualified majority. The authors of the Treaty of Rome determined this qualified majority using a system of weighted votes reflecting the population of the member states, with a correction in favor of states with smaller populations. The heavy adjustment for the less populous states was intended to safeguard the individuality of each country (European Commission 2000a).

This system has been adapted to take account of successive enlargements, without changing the relative weight of the member states as determined at the outset. Nevertheless, the qualified majority has always represented a large majority in terms of population of the member states supporting the decision (see European Commission 1999). However, the forthcoming enlargement will have major implications. Problems can arise since most applicant countries have relatively small populations. With enlargement, each new member state will be assigned a certain number of votes for the purposes of qualified majority voting. This means that, in the future, member states representing a relatively smaller share of the total population of the EU could constitute a qualified majority. In fact, if the current weighting system were to remain in place, the possibility exists that, in an enlarged Union, a qualified majority could by achieved by a group of small member states representing only 50 percent of the EU's total population (European Commission 2000a).

A generally accepted aim behind the support for re-weighting was thus to make sure that any winning combination of states under QMV will represent a sufficient majority of the population, and to ensure that decisions cannot be blocked by too small a majority (Best 2001). There were also concerns regarding the relative positions of the larger member states. The original distribution of votes was calculated to reflect a certain balance

between the large member states and their smaller partners (Bradley 2001). If the current weighting system is retained, the increase in the number of small member states will alter this balance. The result will be that the relative underrepresentation of the large member states increases.

The liberal intergovernmentalist emphasis on member states and the strength of their preferences also provides an explanation for the outcomes of the negotiations on re-weighting of the votes in the Council. Most countries agreed that the existing system needed to be changed to offset the effects of enlargement. However, opinions were divided regarding how this should be done. In this issue, preferences to a large extent coincided with the size of member states. The large member states wanted more votes and their smaller counterparts wanted to minimize their loss of voting power (Dutch Government 2000). Even so, the preferences of the smaller countries were less intense than those of, for instance, Italy, the United Kingdom, Spain, Germany and France (see e.g. German Government 2000, British Government 2000, Danish Government 2000). Part of the reason for this was that most of the countries acknowledged the risk that enlargement could lead to a situation where the qualified majority represented only just over half the Union's population. Another reason for the strength of the preferences of the larger countries concerns the development in other issues, especially in that of the size of Commission, which I also will return to below.

It was not only the number of votes for each country that was debated, but also the construction of the qualified majority voting system as a whole. The Amsterdam Protocol had earlier stated two options for determining the qualified majority, either by a re-weighting of the current system or by creating a new system of dual majority on votes and population. In the negotiations the countries were split between the two alternatives (see e.g. Italian Government 2000, Greek Government 2000). After negotiations the Intergovernmental Conference finally decided that the qualified majority voting system would be modified from 1 January 2005. The number of votes allocated to each member state has been changed. Concerning the construction of the system, a compromise was eventually found in a kind of triple majority. For a decision to be approved it must have the agreement of the majority of the member states, well over 70 percent of the weighted votes and, if a member state so requests, 62 percent of the total EU population (European Commission 2000b).

This outcome can be seen as supporting another key assumption of liberal intergovernmentalism. The theory stresses the autonomy of national leaders from supranational institutions (Moravcsik 1993, 1998). For reasons of transparency and simplicity the Commission had earlier proposed a so-called double simple majority system. In this system a qualified-majority decision would be attained if it had the support of a simple majority of member states representing a majority of the total population of the EU (European Commission 2000a). However, this solution did not stand a chance against the strong preferences of the member states. The Commission's call for an easily understood procedure for decision-making was consequently not listened to. Instead, the new triple threshold implies even greater complexity than the present arrangements.

The support for a historical-instititutionalist explanation of the outcome on the issue of weighting of the votes is limited. Nevertheless, the Amsterdam Protocol structured the negotiations by giving the two main alternatives for the change of the current system. Different proposals had also been circulated on several occasions in the years before the conference was inaugurated (Edwards 1998, p. 59). This means that the issue had been discussed before the IGC 2000 and that the negotiations cannot be viewed as a completely separate episode. In addition, in their effort to find a solution the member states were of course also constrained by the historical design of the voting system, which provided a starting point for the negotiations.

However, an historical-institutionalist explanation of the outcome of negotiations on this issue is also associated with difficulties. One of the key assumptions of the approach is that institutions develop in path dependent ways. In the case of the votes in the Council, past decisions would indicate that the distribution of votes among the member states would once again be adjusted mathematically without a re-weighting. This was the solution at earlier enlargements (Bradley 2001, p. 1108). The reason behind this development would be that the procedures of the original system have become institutionalized. Yet this time the Intergovernmental Conference both changed the weighting and introduced new procedures. Nevertheless, this "problem" for an historical-institutionalist explanation should not be overemphasized. The changes introduced were not radical, and perhaps the outcome of negotiations can even be interpreted as a continuation of a series of minor adjustments.

## The Size of the Commission

Ever since it was established, the Commission has consisted of two nationals from each of the larger member states and one national from each of the smaller member states. When new member states have joined the Community, the Commission's membership has been enlarged (European Commission 2000c). If the countries currently applying for membership join the Union, the existing system would produce a Commission with a very large membership. Concern has been raised that too many Commissioners would negatively affect efficiency. The loss of efficiency is among other things believed to arise due to problems of fragmented responsibilities and problems in maintaining the principle of collective responsibility (British Government 2000, European Commission 2000a).

In this issue a clear line can be drawn between the larger and smaller member states. The large countries were in favor of restricting the number of Commissioners. Their smaller counterparts insisted on retaining their right to nominate a Commissioner. The large countries (Germany, the United Kingdom, France, Italy and Spain) had so far been allowed to nominate two Commissioners. Even if they were in favor of limiting the number of Commissioners they were still reluctant to lose that right, especially if a ceiling on the total number of Commissioners was not introduced.

Accordingly, the small countries had very strong preferences to keep "their" Commissioner. Throughout the conference they vigorously defended the right for every country to propose one Commissioner (Yataganas 2001). In the end, these countries were also successful, at least for the medium term, in protecting their positions. It was agreed that the member states will have one Commissioner each until their number reaches 27. From then on, the number of Commissioners will be cut and a system of egalitarian rotation will be installed among all the member states (European Commission 2000c).[10]

The largest countries will thus lose their right to nominate two commissioners. This was primarily the outcome of bargaining based on linkage. In return for giving up their right to nominate a second Commissioner the five largest member states were given more votes in the Council (Best 2001, Yataganas 2001). Bargaining between states and outcomes shaped by strong issue-specific member state preferences are features that fit well with liberal intergovernmentalism. The theory allows for the interests of the

small countries to prevail. What matters is the relative strength of issue-specific preferences. However, the support for historical institutionalism evidenced by the negotiations on the size of the Commission is even clearer and will be discussed next.

Negotiations on this issue were greatly constrained by past events. As early as in the late 1970s it was felt that the Commission was too large. In 1979, during the negotiation of the Mediterranean enlargement, Commission President Roy Jenkins asked Dirk Spierenburg, a former Commissioner, to suggest improvements in the Commission's structure and operations. One of the main recommendations of the Spierenburg Report was to reduce the number of Commissioners (Bradley 2001, p. 1101). The same conclusion was drawn by the so-called "Three wise men" in their report presented some weeks later.[11] It was the French president Giscard d'Estaing who had taken the initiative to convene a committee of prominent persons to consider adjustments to the EU's institutions. Among other things the report recommended that the number of Commissioners should be limited to one per member state (Dinan 1998, p. 24).

Moreover, during the Intergovernmental Conference preparing the Maastricht Treaty there were discussions about reducing the number of commissioners to one each. It was even agreed provisionally that the principle of "one Commissioner per member state" should be applied. However, the preliminary agreement did not survive the final session of that IGC (Bradley 2001, p. 1101). Instead the Maastricht Treaty included a declaration that the member states should "examine the questions relating to the number of members of the Commission and the number of members of the European Parliament no later than the end of 1992" (Bradley 2001, pp. 1097). However, the issue of the size of Commission was not seriously addressed until the two latest Intergovernmental Conferences.

As discussed above, the final agreement was reached through a link to the issue of the weighting of votes in the Council. In fact, past decisions were important for the realization of this solution. The link between the two issues had already earlier been established by the Amsterdam Protocol. It recognized that member states which give up their right to nominate a second Member of the Commission should be compensated. The legacy of the Amsterdam IGC is clearly manifested in the opinions of the member states, which often referred to the Protocol when making proposals (see for instance Dutch Government 2000, Austrian Government 2000).

As shown, previous initiatives, reports and negotiations preceded the negotiations during the IGC 2000 on the size of the Commission. Taken together these historical activities mean that the negotiations were seriously structured by past events. This supports historical institutionalism and its claim that the negotiations need to be situated in a distinct historical and contextual setting.

## Final Thoughts on the Outcome of Negotiations

The predictions of liberal intergovernmentalism correspond well with observations from the conduct and outcomes of negotiations during the IGC 2000. The analysis of the three main issues shows that the conference had many of the ingredients that are features of strategic bargaining. Agreements were constrained by the positions of reluctant member states. Governments did not give in when they had strong preferences against a specific solution, but could concede where they had less at stake.

Linkages were established and were instrumental in reaching agreements. In many cases, outcomes reflected the lowest common denominator. The overall outcome of negotiations was probably disappointing to some. However, as liberal intergovernmentalism would predict, this was rather the result of the underlying distribution of preferences, than of inefficient negotiations. As the analysis in the previous chapter revealed, negotiations were conducted in an information-rich setting and this facilitated understanding of the positions of the other states. Still, there is one thing that contradicts the argument about efficiency and rationality of negotiations, and that is the final days in Nice, which seem to have been quite chaotic when the delegations rushed to reach agreement (Black 2000).

Another observation that supports the claims of liberal intergovernmentalism is that there appears to be low correlation between support from the Commission and the European Parliament and the final outcome. The institutions themselves had called for deep reforms and more simplicity in decision-making procedures. However, after Nice the institutions are not as fundamentally reformed as they had hoped and the system of decision-making is still complex, and perhaps even more so. Thus, in line with the

assumptions of liberal intergovernmentalism, there seems to have been substantial autonomy for the governments from supranational influence.

There is however one major problem for the liberal intergovernmentalist argument of rational bargaining on the basis of domestic political "ratifiability" (Moravcsik 1993, Moravcsik & Nicola_dis 1999). The problem is the rejection of the Treaty in the Irish referendum. According to the theory, governments are not supposed to agree to amendments that do not have domestic approval. Since it would lead beyond the scope of this paper I will not further elaborate on the Irish referendum here. I will merely note that it has been pointed out that it became a battleground for a broader debate than the amendments originating in Nice. Historical institutionalism ascribes agency powers to institutions. Consequently, the limited support for the ideas of the Commission and the European Parliament can be considered to be a problem for that explanation. However, the fact that their proposals were not followed is not just a problem for historical institutionalism. Their attitude was that wide-ranging changes were necessary. In the end, the reforms were relatively less radical. This outcome fulfils the predictions of historical institutionalism about a slow and path dependent evolution of institutions. EU procedures have over time become institutionalized which make them difficult to change. Nevertheless, some quite far-reaching changes were actually decided on, and that is less readily explicable on the basis of this approach.

Furthermore, an historical-institutionalist explanation of the conference is supported by the fact that the negotiations constituted a continuation of previous handling of the issues, rather than a completely new bargaining situation. Many reports and opinions that were important for the negotiations during the conference had already been presented. Moreover, several Intergovernmental Conferences had been conducted in the last twenty years and discussions and decisions on the preceding occasions had implications for what it proved possible to agree on in Nice.

# 5 Conclusions

The analysis of the reform process demonstrates that the liberal intergovernmentalist theory offers an explanation that, to a large extent, is correct, but at the same time not sufficient to provide a complete understanding of the Intergovernmental Conference 2000. Liberal intergovernmentalism emphasizes some of the key factors that decided the outcome of the conference. In the negotiations the theory rightly points to the importance of states and the strength of their preferences. Their interests were also more important than those of the supranational bodies of the Union. These observations support the claims made for liberal intergovernmentalism. The same can, at least to some extent, be said about the results of the negotiations, which often reflected the lowest common denominator of the preferences of the member states.

If the only aim was to find a simple explanation for the outcome of the conference liberal intergovernmentalism would be a good candidate. However, if the focus is solely on bargaining during the conference, previous development in the issues are not taken into full consideration. The analysis of previous events demonstrates that the governments of the member states were not in total control of the negotiations. Thus, to understand the negotiations fully, one must move beyond the exclusive emphasis on states and their preferences. On-the-spot bargaining was important, but the outcome of the negotiations was also determined by events that date further back in time. To account for these, one needs a more inclusive approach. In this quest, the historical and contextual perspective offered by historical institutionalism is very helpful.

Historical institutionalism correctly emphasizes that the conference cannot be regarded as an entirely new bargaining situation. Past events and decisions were important in structuring the negotiations. Factors such as decisions at previous conferences, the unanticipated speed of the enlargement process, and the institutionalization of rules and procedures clearly affected the member states in their decision-making. In short, the temporal dimension must be taken into account and the treaty reforms were part of a process, rather than an event that can be isolated.

However, if liberal intergovernmentalism is valuable but not sufficient,

the same is true for historical institutionalism. As noted above, it helpfully points to the importance of past events in influencing the outcome. Yet, it is more difficult for the approach to explain why reforms were decided at this conference and for instance not at the Amsterdam IGC where they had been discussed earlier. Still, some scholars would perhaps argue that there is theoretical guidance available from historical institutionalism also for this matter. Scholars of historical institutionalism have emphasized the opportunities for institutional change created by major crises. These so-called critical junctures present leaders with the opportunity to try new solutions and realize new plans (Thelen 1999, pp. 388-392, Gorges 2001, Bulmer & Birch 2001, pp. 81-82). The forthcoming accession of new members entails some difficulties for the functioning of the institutions of the European Union. Still, even if the governments have some problems controlling the speed of the enlargement process, it is in my view doubtful whether the situation can be considered to constitute a critical juncture. The enlargement has major consequences for the institutional framework, but it would be too much to conclude that they imply a total crisis for the system.

So what does this mean in terms of answers to the research question of the study? Liberal intergovernmentalism has proved to be useful, though with certain qualifications. The situation is complex and a more inclusive approach than the theory can offer identifies several factors constraining the member states. Consequently, the theory needs to be complemented with additional explanations. This case is an example of the kind of situation when liberal intergovernmentalism is supposed to be at its best. Accordingly, this result is problematic for the theory. Still, the reservations are not enough to reject the theory. The analysis does not question its relevance for some important components of the reform process. It is especially helpful in explaining the instant bargaining during the conference. Historical institutionalism has not been developed for the analysis of this kind of treaty reforms. Accordingly, it is not surprising that the approach has some problems explaining the timing and exact content of the reforms. Still, historical institutionalism is useful in contextualizing the negotiations and to underline that they are part of a more protracted process.

Thus, both theoretical frameworks offer valuable insights, but they do not on their own provide a complete understanding of the complex process. However, an interesting conclusion that can be drawn is that they to a

large extent complement each other. Since their emphases differ, the support that empirical observations provide for one of them does not necessarily mean that the assumptions of the other are rejected. In fact, their explanations are to a large extent supplementary and taken together they produce a better explanation of the course of events. As indicated above a main reason for these complementary qualities is that their emphases with regard to time diverge. Liberal intergovernmentalism focuses solely on the ten months the IGC 2000 was open. Historical institutionalism emphasizes a much more protracted time period and draws attention to the significance of previous handling of the issues.

If liberal intergovernmentalism and historical institutionalism on the whole can be regarded as supplementary there are still some occasions where their assumptions are certainly competitive. According to liberal intergovernmentalism the Union's supranational bodies play, at most, passive roles. In comparison, historical institutionalism ascribes much more weight to the agency of these formal institutions. On this issue it is hard to determine which prediction is closest to the actual development. The empirical evidence indicates that the supranational institutions were more important than assumed by liberal intergovernmentalism. They did not only perform efficiency-enhancing tasks, but also presented their own proposals as well as participated in the meetings during the conference. However, their influence on the outcome was still much more limited than that of the member states. This is for example manifested in the fact that the radical reforms suggested by the Commission and the European Parliament were almost entirely ignored.

To summarize, the study demonstrates that both the narrow approach of liberal intergovernmentalism and the more inclusive explanation offered by historical institutionalism are valuable for the understanding of the Intergovernmental Conference 2000. Still, their explanatory power is in certain respects restricted, something that needs to be accounted for. However, the study also indicates that thanks to the way in which they supplement one another, if taken together they provide a better understanding than either is able to do on its own. The next chapter concludes the study by outlining some additional general implications of these findings.

# 6 General Implications

The purpose of this paper has been to test the usefulness of two rival theoretical frameworks, liberal intergovernmentalism and historical institutionalism, by subjecting them to the empirical case of the Intergovernmental Conference 2000. Consequently, the intention has primarily been to evaluate their explanatory power in this specific case and not to produce results that will necessarily hold for all other occasions. Still, the case was selected since it offers an appropriate testing ground for the analytical frameworks. Accordingly, to contextualize the analysis I will bring the study to a close by presenting a few tentative conclusions about some general implications of the findings.

The discussion will primarily focus on the validity of the results for other Intergovernmental Conferences. Can the conclusions about the usefulness of the theoretical frameworks be expected to be valid also for future occasions? In making this analysis care is needed. For instance, before drawing general conclusions it is essential once again to reflect upon how representative the analyzed case is. Since the agenda was mostly composed of leftovers from the preceding conference, it must be acknowledged that the Intergovernmental Conference 2000 was slightly unusual. In particular, this has consequences for the general implications of some of the conclusions about the historical-institutionalist approach. Historical institutionalism emphasizes the importance of past events. The "leftover agenda" meant that the negotiations during IGC 2000 were perhaps more structured by historical decisions than they were, and will be, at other IGCs. Consequently, it would be presumptuous to argue that all the findings of the study could be transferred to other conferences.

Still, some of the results are clearly valid also for other occasions. A first example is the conclusion that liberal intergovernmentalism provides an explanation which is valuable, but at the same time somewhat simplified. The study supports the liberal intergovernmentalist assumptions about member states being the most important actors in the treaty reform process and about their interests to a large extent determining the results of negotiations. This is likely to be the case at future conferences as well. The member states decide on the final outcome. However, as the study demon-

strates, the supranational bodies of the Union also participate in the process. Judging from the latest conferences the trend is that they, and especially the European Parliament, participate increasingly in the negotiations. Consequently, the member states are also likely to be accompanied by other actors in the future.

Furthermore, the study shows that member state control is more circumscribed than assumed by the liberal intergovernmentalist theory. Several structuring elements have been identified. Some of them were of course specific for this conference, but others will be valid also for future IGCs. This is for instance true for the institutionalization of some treaty amending procedures, as well as for the legal constraints on states arising from the fact that the conferences are about reforms and not about creating a completely new legal framework.

Thus, many of the conclusions drawn about liberal intergovernmentalism are likely to hold also for upcoming conferences. The same is true for many of the inferences drawn about historical institutionalism. The study demonstrates that one of the most important factors supporting historical institutionalism is that the issues on the agenda had been discussed and framed at previous Intergovernmental Conferences. However, there are no leftovers from IGC 2000, like there were after the Amsterdam IGC, and future conferences will perhaps not deal with issues so marked by previous handling.[12] Still, there were other aspects supporting historical institutionalism which will be relevant also for future conferences. These for example include the above discussed institutionalization of procedures and legal constraints. In addition, the trend towards setting up conferences with short intervals in between seems to continue. There is a new Intergovernmental Conference preliminarily scheduled to be convened in 2004. This indicates that the conclusion about treaty reform as a continuous process may remain valid also in the future.

To conclude, this study has tested the usefulness of liberal intergovernmentalism and historical institutionalism. Overall, the results are positive for the theoretical frameworks. They present analytical assumptions that help to shed light on the complex processes of the Intergovernmental Conference 2000. Still, there are some important limitations connected to their explanations that must be taken into account. Finally, this last section concludes that many of the results of the analysis in this study seem to be valid also for other occasions.

# Endnotes

1 The agreed modifications can enter into force when they have been ratified by all the Member States in accordance with their respective constitutional requirements. However, this is not yet the case. A problem has also arisen after the Irish voters rejected the treaty in a referendum 7 June 2001.

2 Most scholars, including the majority of its critics, acknowledge liberal intergovernmentalism as a theory. However, there are exceptions. For a questioning of its status see Wincott (1995). He claims that liberal intergovernmentalism should be thought of as an approach rather than a theory.

3 The other conferences resulted in the Single European Act in 1987, the Treaty on European Union (Maastricht) in 1993, and the Treaty of Amsterdam in 1997.

4 For reviews of neoinstitutionalist research see Hall & Taylor 1996, Kato 1996 and Koelbe 1995. These assessments distinguish between three different varieties: rational choice institutionalism, historical institutionalism, and sociological institutionalism.

5 The report "Adapting the Institutions to make a Success of Enlargement" was issued on 26 January 2000.

6 The representatives, Elmar Brok and Dimitrios Tsatsos, presented a summary of the proceedings on the eve of the Feira European Council as well as a report of the stage reached on the eve of the Nice European Council. The reports were presented 7 June and 29 November respectively.

7 The official name of the protocol is "Protocol on the institutions with the prospect of enlargement of the European Union".

8 As already discussed, the Commission later presented a more detailed report at the outset of the conference.

9 The other two members of the group were Lord David Simon, former chairman of British Petroleum and former German President Richard von Weizsäcker.

10 The exact number of Commissioners and the detailed arrangements for rotation were left open. These issues will be determined unanimously by the Council, after the 27th Member State signs the Accession Treaty.

11 The committee was comprised of Barend Biesheuvel, Edmond Dell and Robert Marjolin.

12 With "no leftovers" I mean that an agreement was reached on the main issues. However, this does not necessarily mean that I believe that the agreement was the best possible. Many participants, observers, and scholars have expressed disappointment with the outcome of the conference.

# References

Armstrong, Kenneth & Bulmer, Simon (1998) *The Governance of the Single European Market*. Manchester: Manchester University Press.

Aspinwall, Mark & Schneider, Gerard (2001) "Institutional research on the European Union: mapping the field", in Aspinwall, Mark & Schneider, Gerard (eds.), *The rules of integration: The Institutionalist Approach to European Studies*. Manchester: Manchester University Press.

Austrian Government (2000) "Basic principles of Austria's position", 15 February. Available online at (http://db.consilium.eu.int/cigdocs/EN/04712en0.pdf). Accessed on April 8, 2002.

Baun, Michael J. (2000) *A wider Europe: the Process and Politics of European Union Enlargement*. Lanham, Md.: Rowman & Littlefield.

Begg, Iain & Peterson, John (1999) "Editorial: Statement", *Journal of Common Market Studies*, vol. 37, no. 1, pp. 1-12.

Best, Edward (2001) "The Treaty of Nice: Not Beautiful but It'll Do", *Eipascope* 2001/1. Available online at (http://eipanl.com/public/public_eipascope/01/scop_1/scop2001_1colour.pdf). Accessed on April 17, 2002.

Black, Ian (2000) "EU tries to figure out what it decided at Nice", *Guardian*, 22 December. Available online at (http://www.guardian.co.uk/Archive/Article/0,4273,4109087,00.html). Accessed on April 26, 2002.

Bradley, Kieran (2001) "Institutional Design in the Treaty of Nice", *Common Market Law Review*, vol. 38, pp. 1095-1124.

British Government (2000) "The British Approach to the European Union Intergovernmental Conference 2000", February. Available online at (http://files.fco.gov.uk/eudi/igc.pdf). Accessed on April 9, 2002.

Brok, Elmar & Tsatsos, Dimitrios (2000a) "Summary of the proceedings of the Intergovernmental Conference between 14 February and 6 June 2000 on the eve of the Feira European Council to be held on 19 and 20 June", 7 June. Available online at (http://www.europarl.eu.int/igc2000/offdoc/pdf/413752_en.pdf). Accessed on April 26, 2002.

Brok, Elmar & Tsatsos, Dimitrios (2000b) "Stage reached in the work of the Intergovernmental Conference on the eve of the meeting of the European Council to be held from 7 to 9 December 2000 in Nice", 29 November. Available online at (http://www.europarl.eu.int/igc2000/offdoc/pdf/423959_en.pdf). Accessed on April 26, 2002.

Bulmer, Simon (1994) "The Governance of the European Union: A New Institutionalist Approach", *Journal of Public Policy*, vol. 13, no. 4, pp. 351-380.

Bulmer, Simon (1998) "New institutionalism and the governance of the Single European Market", *Journal of European Public Policy*, vol. 5, no. 3, pp. 365-386.

Bulmer, Simon & Burch, Martin (2001) "The 'Europeanisation' of central government: the UK and Germany in historical institutionalist perspective", in Aspinwall, Mark & Schneider, Gerard (eds.), *The rules of integration: The Institutionalist Approach to European Studies*. Manchester: ManchesterUniversity Press.

Christiansen, Thomas - Falkner, Gerda & Jørgensen, Knud Erik (2002) "Theorizing EU treaty reform: beyond diplomacy and bargaining", *Journal of European Public Policy*, vol. 9, no. 1, pp. 12-32.

Danish Government (2000) "Basis for negotiations", 7 March. Available online at (http://db.consilium.eu.int/cigdocs/EN/04722en.pdf). Accessed on April 9, 2002.

Dehaene, Jean-Luc - Simon, David & von Weizsäcker, Richard (1999) "The Institutional Implications of Enlargement", 18 October. Available online at (http://europa.eu.int/igc2000/repoct99_en.pdf). Accessed on April 20, 2002.

Dinan, Desmond (1998) "The Commission and Enlargement", in Redmond, John & Rosenthal, Glenda G. (eds.), *The Expanding European Union - Past, Present, Future*. Boulder, Colorado: Lynne Rienner Publishers.

Dutch Government (2000) "An agenda for internal reforms in the European Union", 6 March. Available online at (http://db.consilium.eu.int/cigdocs/EN/04720en.pdf). Accessed on April 9, 2002.

Edwards, Geoffrey (1998) "The Council of Ministers and Enlargement: A Search for Efficicncy, Effectiveness, and Accountability?, in Redmond, John & Rosenthal, Glenda G. (eds.), *The Expanding European Union - Past, Present, Future*. Boulder, Colorado: Lynne Rienner Publishers.

European Commission (1999) "Adapting the institutions to make a success of enlargement - Contribution by the European Commission to preparations for the Intergovernmental Conference on institutional issues", 10 November. Available online at (http://europa.eu.int/comm/archives/igc2000/offdoc/prep_igc_en.pdf). Accessed on April 17, 2002.

European Commission (2000a) "Adapting the Institutions to make a Success of Enlargement – Commission Opinion in accordance with Article 48 of the Treaty on European Union on the calling of a Conference of Representatives of the Governments of the Member States to amend the Treaties". Luxembourg: Office for Official Publications of the European Communities

European Commission (2000b) "Factsheet - Weighting of votes". Available online at (http://europa.eu.int/comm/archives/igc2000/geninfo/fact-sheets/factsheet8/index_en.htm). Accessed on April 12, 2002.

European Commission (2000c) "Factsheet - The Commission". Available online at (http://europa.eu.int/comm/archives/igc2000/geninfo/fact-sheets/factsheet7/index_en.htm). Accessed on April 12, 2002.

European Commission (2000d) "Factsheet - Qualified-Majority Voting: General Overview". Available online at (http://europa.eu.int/comm/archives/igc2000/geninfo/fact-sheets/fact-sheet1/index_en.htm). Accessed on April 12, 2002.

European Parliament (2000a) "Resolution of the European Parliament on the convening of the Intergovernmental Conference", 3 February. Available online at (http://www.europarl.eu.int/igc2000/offdoc/pdf/res03022000_en.pdf). Accessed on April 23, 2002.

European Parliament (2000b) "Report on the European Parliament's proposals for the Intergovernmental Conference", 27 March. Available online at (http://www.europarl.eu.int/igc2000/offdoc/pdf/repa50086_1en_en.pdf). Accessed on April 23, 2002.

Falkner, Gerda (2002) "EU treaty reform as a three-level process", *Journal of European Public Policy*, vol. 9, no. 1, pp. 1-11.

Finnish Government (1999) "Helsinki European Council 10 and 11 December 1999: Presidency Conclusions". Available online at (http://ue.eu.int/Newsroom/LoadDoc.asp?BID=76&DID=59750&LANG=1). Accessed on April 20, 2002.

Finnish Government (2000) "Background to and objectives in the IGC 2000", 7 March. Available online at (http://db.consilium.eu.int/cigdocs/EN/04720en.pdf). Accessed on April 9, 2002.

German Government (1999) "Cologne European Council 3 and 4 June 1999: Presidency Conclusions". Available online at (http://ue.eu.int/Newsroom/LoadDoc.asp?BID=76&DID=57886&LANG=1). Accessed on April 20, 2002.

German Government (2000) "Policy document of the Federal Republic of Germany on the Intergovernmental Conference on institutional reform", 30 March. Available online at (http://db.consilium.eu.int/cigdocs/EN/04733en.pdf). Accessed on April 9, 2002.

Gorges, Michael J. (2001) "The New Institutionalism and the Study of the European Union: The Case of the Social Dialogue", *West European Politics*, vol. 24, no. 4, pp. 152-168.

Greek Government (2000) "Memorandum from the Greek Government to the Intergovernmental Conference on institutional reform of the European Union". Available online at (http://db.consilium.eu.int/cigdocs/EN/04719en.pdf). Accessed on April 9, 2002.

Gstöhl, Sieglinde (2000) "The European Union after Amsterdam: Towards a Theoretical Approach to (Differentiated) Integration", in Green Cowles, Maria & Smith, Michael (eds.), *The State of the European Union vol. 5: Risks, reform, resistance, and revival.* Oxford: Oxford University Press.

Hall, Peter A. & Taylor, Rosemary (1996) "Political Science and the Three New Institutionalisms", *Political Studies*, XLIV, pp. 936-957.

Italian Government (2000) "IGC 2000 - Italy's position". Available online at (http://db.consilium.eu.int/cigdocs/EN/04717en.pdf). Accessed on April 9, 2002.

Kato, Junko (1996) "Institutions and Rationality in Politics – Three Varieties of Neo-Institutionalism", *British Journal of Political Science*, vol. 26, pp. 553-582.

Keohane, Robert O. & Hoffman, Stanley (1991) "Institutional Change in Europe in the 1980s", in Keohane, Robert O. & Hoffman, Stanley (eds.), *The New European Community: decisionmaking and institutional change*. Boulder, Colorado: Westview Press

Koelble, Thomas A. (1995) "The New Institutionalism in Political Science and Sociology", *Comparative Politics*, vol. 27, no. 2, pp. 231-243.

Moravcsik, Andrew (1993) "Preferences and Power in the European Community: A Liberal Intergovernmentalist Approach", *Journal of Common Market Studies*, vol. 31, no. 4, pp. 473-524.

Moravcsik, Andrew (1995) "Liberal Intergovernmentalism and Integration: A Rejoinder", *Journal of Common Market Studies*, vol. 23, no. 4, pp. 611-628.

Moravcsik, Andrew (1998) *The Choice for Europe: Social Purpose and State Power from Messina to Maastricht*. London: UCL Press Limited.

Moravcsik, Andrew & Nicola_dis, Kalypso (1999) "Explaining the Treaty of Amsterdam: Interests, Influence, Institutions", *Journal of Common Market Studies*, vol. 37, no. 1, pp. 59-85.

Pierson, Paul (1996) "The Path to European Integration. A historical institutionalist approach", *Comparative Political Studies*, vol. 29, no. 2, pp. 123-162.

Pollack, Mark (1996) "The New Institutionalism and EC Governance: The Promise and Limits of Institutional Analysis", *Governance*, vol. 9, no. 4, pp. 429-458.

Prodi, Romano (2000) Speech at the European Parliament on the European Council of Nice on 12 December. Available online at (http://europa.eu.int/rapid/start/cgi/guesten.ksh?p_action.gettxt=gt&doc=SPEECH/00/499|0|AGED&lg=EN&display=). Accessed on April 17, 2002.

Risse-Kappen, Thomas (1996) "Exploring the Nature of the Beast: International Relations Theory and Comparative Policy Analysis Meet the European Union", *Journal of Common Market Studies*, vol. 34, no. 1, pp. 53-80.

Rosamond, Ben (2000) *Theories of European Integration*. London: MacMillan Press.

Sverdrup, Ulf (1998) "Precedents and Present Events in the European Union – An Institutional Perspective on Treaty Reform", Arena Working Paper WP 98/21.

Sverdrup, Ulf (2002) "An institutional perspective on treaty reform: contextualizing the Amsterdam and Nice Treaties", *Journal of European Public Policy*, vol. 9, no. 1, pp. 120-140.

Thelen, Kathleen (1999) "Historical Institutionalism in Comparative Politics", *Annual Review of Political Science*, vol. 2, pp. 369-404.

Thelen, Kathleen & Steinmo, Sven (1992) "Historical institutionalism in comparative politics", in Thelen, Kathleen & Steinmo, Sven, *Structuring Politics*. Cambridge, N.Y.: Cambridge University Press.

Weiler, Joseph - Haltern, Ulrich & Mayer, Franz (1995) "European Democracy and Its Critique", *West European Politics*, vol. 18, no. 3, pp. 4-39.

Wessels, Wolfgang (2001) "Nice Results: The Millenium IGC in the EU's Evolution", *Journal of Common Market Studies*, vol. 39, no. 2, pp. 197-219.

Wincott, Daniel (1995) "Institutional Interaction and European Integration: Towards an Everyday Critique of Liberal Intergovernmentalism", *Journal of CommonMarket Studies*, vol. 33, no. 4, pp. 597-609.

Yataganas, Xenophon (2001) "The Treaty of Nice: The Sharing of Power and the Institutional Balance in the European Union - A Continental Perspective", Jean Monnet Working Paper 1/01. Available online at (http://www.jeanmonnetprogram.org/papers/01/010101.rtf). Accessed on April 17, 2002.