

Double versus Triple Majorities: Will the New Voting Rules in the Council of the European Union Make a Difference?

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What impact will the Lisbon Treaty's new system of voting in the Council have? After describing the new voting rules, this study develops a modelling approach to assess their likely impact. The first part of the analysis examines the extent to which procedural rules have affected the decision-making process in the recent past, since this will help assess the likely impact of the changes brought by the Lisbon Treaty. The second part of the analysis presents a counter-factual analysis of recent decisions, exploring what would have happened had the Lisbon rules been applied. The main finding is that even under the strong and unrealistic assumption that formal rules define the decision-making process, decision outcomes would have been the same in most cases. The paper concludes by discussing the features of Council decision-making that soften the impact of these rule changes.

One of the Lisbon Treaty's aims is to ensure that the enlargement of the European Union does not cause legislative gridlock. The reasoning behind some of its innovations was that if the same rules that applied to the EU-15 were applied to the enlarged EU, the system could grind to a halt. Prior to enlargement, practitioners and academics voiced concern about the possible impact of increased numbers and diversity of decision-makers on the EU's decision-making processes. Increasing numbers of actors could make decision-making more difficult, introducing a bias toward the status quo (e.g. Hosli 1999). König and Bräuninger (2004: 421) noted that enlargement has the potential to create gridlock. Similarly, commenting on the first years since enlargement, Hix (2008: 47) asserted that the EU was experiencing legislative gridlock: 'most new EU policies are extremely watered-down deals that hardly change existing ... national provisions'.

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One of the main innovations of the Lisbon Treaty is the amended system of qualified majority voting (QMV). It replaces the previous triple-majority rule from the Nice Treaty with a new double-majority rule. According to the Nice Treaty rules that govern QMV up to 2016, a bill can be adopted by the Council of 27 member states if approved by states that together (i) hold 255 of 345 votes, (ii) are at least 14 in number and (iii) have at least 62 per cent of the EU's total population (Table 1). The Lisbon Treaty introduced a new system of QMV, whereby from 2014 decisions need the approval of 55 per cent of member states that have 65 per cent of the combined total of EU states' populations. To prevent a small number of large states from blocking a decision, the population criterion only applies if at least four member states oppose the adoption of a bill. If only three or fewer states oppose it, the population criterion will not apply, even if

TABLE 1
EU MEMBER STATES' POPULATION SIZES AND VOTING WEIGHTS ACCORDING TO
THE NICE TREATY

Member state	EU-15 votes	EU-25 votes	EU-27 votes	Population in millions (% of total EU population)
Germany	10	29	29	82.3 (16.63)
France	10	29	29	63.4 (12.80)
UK	10	29	29	60.8 (12.28)
Italy	10	29	29	59.1 (11.94)
Spain	8	27	27	44.5 (8.98)
Poland		27	27	38.1 (7.70)
Romania			14	21.6 (4.36)
Netherlands	5	13	13	16.4 (3.30)
Greece	5	12	12	11.2 (2.26)
Portugal	5	12	12	10.6 (2.14)
Belgium	5	12	12	10.6 (2.14)
Czech Republic		12	12	10.3 (2.08)
Hungary		12	12	10.1 (2.03)
Sweden	4	10	10	9.1 (1.84)
Austria	4	10	10	8.3 (1.68)
Bulgaria			10	7.7 (1.55)
Denmark	3	7	7	5.4 (1.10)
Slovak Republic		7	7	5.4 (1.09)
Finland	3	7	7	5.3 (1.07)
Ireland	3	7	7	4.3 (0.87)
Lithuania		7	7	3.4 (0.68)
Latvia		4	4	2.3 (0.46)
Slovenia		4	4	2.0 (0.41)
Estonia		4	4	1.3 (0.27)
Cyprus		4	4	0.8 (0.16)
Luxembourg	2	4	4	0.5 (0.10)
Malta		3	3	0.4 (0.08)
Threshold	62/87 votes	232/321 votes, 13 member states and 62% of population	255/345 votes, 14 member states and 62% of population	

Note: Population data refer to 2007 data from Eurostat.

these states have more than 35 per cent of the EU's population. The new system will come into effect gradually after 2014. In the first three years after its introduction, any member state can request that a decision be taken according to the Nice triple-majority rules.

What difference will the new voting rules make? To answer this question, this study develops a modelling approach consisting of two related analyses. The first analysis examines the extent to which formal procedural rules affected the decision-making process in the past decade. If the formal rules of decision-making are less important than informal norms, then the effects of treaty changes are likely to be small. The second analysis is a counter-factual investigation of whether decision outcomes would have been much different if the Lisbon double-majority rule, rather than the Nice triple-majority rule, had applied to a set of recent cases. The following section outlines the modelling approach used to explore these questions, before proceeding with the research design and analyses. The final section concludes with an assessment of the likely effects of the move to the double-majority rule.

Models of EU Decision-Making

This section outlines three models of EU decision-making. These models contain fundamentally different assumptions regarding the importance of formal rules. The procedural model generates predictions of decision outcomes based on the formalities of the rules and actors' policy preferences. By contrast, the two variants of the Nash Bargaining Solution (NBS) make predictions of decision outcomes without any information on the formal rules. The analysis examines the predictive accuracy of these three models to assess the importance of formal rules versus informal bargaining, which will help us to anticipate the likely effects of the changes brought by the Lisbon Treaty. When conducting this analysis, we should consider the possibility that actors' policy positions may be affected by the voting rules in the Council. So a lowering of the threshold brought by the Lisbon Treaty might change the extent to which member states express relatively extreme or moderate preferences. After introducing the models, this section identifies a measure of differences among member states' policy positions that will help us assess whether the models' performance differs by the level of polarisation in the Council.¹

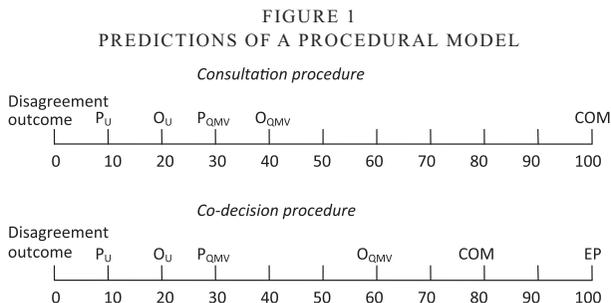
A Procedural Model

Procedural models generate predictions of decision outcomes based on the formal rules of decision-making or 'procedures' and actors' policy preferences (e.g. Crombez 1996; Steunenberg 1994; Tsebelis 1994). The formal rules of decision-making in relation to the consultation procedure are relatively simple (Crombez 1996). Since the EP gives only a non-binding opinion in the consultation procedure, the game is reduced to an interaction between the Commission and member states. The top part of Figure 1 gives a stylised

illustration of the procedural model's prediction on an issue subject to consultation and unanimity voting in the Council. Suppose that member states' policy preferences are distributed between positions 10 and 100 of the policy scale. The concept of pivotal positions is central to all procedural models. In Figure 1, the actor whose position is furthest from the Commission and closest to the disagreement outcome is located at position 10. The disagreement outcome is the outcome that would occur if the actors failed to pass a law, which is often the current status quo position. Position 10 in Figure 1 is referred to as the unanimity pivot, denoted P_U . The location of the unanimity pivot defines the range of potential decision outcomes that all member states prefer to the disagreement outcome, the unanimity winset. In Figure 1 the unanimity winset is the range between positions 0 and 20. If the Commission were to introduce a policy proposal anywhere in this range, all member states would prefer it to the disagreement outcome. Since the Commission aims to realise decision outcomes that are as close as possible to its own policy preference, it will select the policy proposal in this range that is closest to its preference. Therefore, the procedural model's prediction of the decision outcome is 20. Stated more generally, when the consultation procedure is combined with unanimity voting in the Council, the decision outcome will be the policy position within the unanimity winset that is closest to the Commission's preference.

In the procedural model of the consultation procedure combined with QMV in the Council, the Council must either approve the proposal with a qualified majority of member states or amend it with the support of all member states. The QMV pivot refers to the location of the preference of the member state or states that turn a losing minority into a blocking minority, when counting votes from the state furthest from the agenda-setter. If position 30 is the QMV pivot, then the range of positions between position 0 and position 60 is the QMV winset. All of the potential outcomes in this range are preferred to the disagreement outcome by a group of member states that controls at least a qualified majority.

When formulating the content of its legislative proposal, the Commission attempts to introduce a proposal that will not be amended by the Council. Since the Council can amend a proposal unanimously, this means that the



Source: Adapted from Tsebelis and Garrett (2000) and König and Proksch (2006).

Commission must also consider the location of the unanimity winset, even when the QMV rule applies. The Commission can secure a decision outcome by introducing a proposal such that the actor (or actors) located at the QMV pivot is indifferent between the Commission's proposal and the possible unanimously supported amendment by the Council. This is position 40 on the top of Figure 1. Note that this point is as far from the QMV pivot as the predicted decision outcome under unanimity.

Procedural modellers have offered competing interpretations of the co-decision procedure (which was slightly adjusted and renamed the ordinary legislative procedure by the Lisbon Treaty). In the version of the co-decision procedure defined in the Amsterdam Treaty, and that applies to all of the co-decision cases examined here, the Council and EP formally have equal power as co-legislators. Disagreements among analysts on how best to model the contemporary co-decision procedure focus mainly on the questions of whether the Commission is involved and which actor, if any, has a first-mover advantage in the conciliation committee (e.g. Crombez 2003; Steunenberg 1997; Tsebelis 2002: 264–65; Tsebelis and Garrett 1997, 2000: 24–25). I take what is arguably the most literal interpretation of the treaty rules regarding the co-decision procedure. Since the Council and EP can amend the legislative proposal without the approval of the Commission, the Commission is excluded from the formal decision-making process. Moreover, since the formal rules give equal power to the Council and EP, the specification of the procedural model's prediction should not ascribe an advantage to either of the two. Specifically, the co-decision procedure is a bargaining game between the pivotal member state in the Council and the EP. This does not, however, mean that the outcome is necessarily half way between the position of the Council pivot and the EP. The bargaining space ends when either the Council pivot or EP is indifferent between the possible decision outcome and the disagreement outcome. Therefore, under QMV, the outcome predicted on the basis of the configuration at the bottom of Figure 1 is 60. Under the less common rule of co-decision combined with unanimity in the Council, when the unanimity pivot is at position 10 and the EP is at position 100, the predicted outcome is 20.

The Nash Bargaining Solution with the Disagreement Outcome as the Reference Point (NBS-RP)

Nash (1950) formulated the bargaining solution that bears his name in answer to the question of what two actors should get in a situation where they must collaborate for mutual benefit. Informally, the essence of Nash's answer is that if four plausible axioms are met, actors select the outcome that maximises the product of their utilities relative to the disagreement outcome. The Nash Bargaining Solution has been extended to multi-actor settings and has had a profound effect on the study of games (Achen 2006a: 98–101). To apply the NBS to predict outcomes on policy scales, we must make assumptions about

how actors' utilities are affected by different possible decision outcomes. Achen (2006a: 100) and Bailer and Schneider (2006: 162) suggest an operationalisation of the NBS that is similar to the following equation:

$$\operatorname{argmax}_{outcome \in Y} \prod_{i=1}^n S_i(\text{disagreement} - \text{preference}_i)^2 - s_i(\text{outcome} - \text{preference}_i)^2 \quad (1)$$

where: Y is the set of possible decision outcomes on the issue, defined as the set of whole numbers from 0 to 100 that all actors prefer to the disagreement outcome; $\operatorname{argmax}_{outcome \in Y}$ is the decision outcome that maximises the following equation; the uppercase letter pi (Π) is the symbol for the product operator; i is the letter used to denote the first actor in the set of n actors (the set of actors consists of the Commission, EP and member states); s_i is the level of salience that actor i attaches to the issue (the effect of including salience is to weight distances by a greater amount if the actor attaches more importance to the issue); *disagreement* is the disagreement outcome on the issue; *outcome* is a possible decision outcome on the issue from the set of possible decision outcomes Y ; *preference_i* is the policy preference of actor i on the issue.

So the NBS is the decision outcome that maximises the product of each of the actors' utilities. In this formulation of the Nash Bargaining Solution, the disagreement outcome is conceptualised as a policy alternative located somewhere on the 0–100 policy scale. In the empirical analysis that will be described below, the disagreement outcome is operationalised as the 'reference point'. For each controversial issue, the reference point is the decision outcome that would occur with respect to that controversy if the actors failed to reach an agreement. Therefore, the reference point captures the issue-specific implications of the disagreement outcome. Whenever one or more actors favour the reference point, this is the prediction of the decision outcome. This is the first variant of the NBS applied in the following analysis, labelled the NBS-RP, which stands for the Nash Bargaining Solution with the reference point as the disagreement outcome.

The Nash Bargaining Solution without the Reference Point (NBS-no RP)

In reality, the reference point rarely captures the full implications of the disagreement outcome for actors' utilities in the EU (Achen 2006a: 101). There are two other important implications of failure to agree. First, failure to resolve a controversy by adopting the legislative proposal that gave rise to it means that other uncontentious parts of the proposal are lost. Oftentimes, controversy centres on a relatively small but important part of a legislative proposal. Second, failure to resolve a controversy would damage the long-term relationships among actors. Because decision-makers in the EU cooperate on a wide range of policy areas, deterioration in the quality of the relationships among them has far-reaching consequences. Therefore, the disagreement outcome is generally highly undesirable in EU decision-making (Hayes-Renshaw and Wallace 2006: 303).

When the disagreement outcome is extremely undesirable, the Nash Bargaining Solution can be represented in a very simple form. Achen (2006a: 112–17) provided the formal proof of this equivalence. As the value that each of the actors attaches to the disagreement outcome becomes smaller and smaller, the Nash Bargaining Solution approaches the following equation and, at the limit, is identical to it:

$$\text{Outcome} = \frac{\sum_{i=1}^n \text{salience}_i \text{preference}_i}{\sum_{i=1}^n \text{salience}_i} \quad (2)$$

In other words, when the disagreement outcome is highly undesirable, the NBS is approximated by the weighted mean average of actors' preferences. The weights assigned to those preferences are the levels of salience that actors attach to the issue. Achen's (2006a: 116) formula also weights actors' policy preferences by their power, which he defines as $1/a_i$, where a denotes the utility difference between each actor's preference and the disagreement outcome. As the loss from the disagreement outcome becomes larger and more similar for all actors, Achen's formula is approximated by a formula that weights actors' preferences by their issue saliences only.² In shorthand, I refer to the NBS without the reference point as the disagreement outcome as NBS-no RP, which stands for the Nash Bargaining Solution without the Reference Point.

Polarisation

Member states may select their policy positions partly in response to the institutional context in which they operate. They might take relatively extreme positions so that the compromise is closer to their ideal positions, or they might take moderate positions so that they do not appear to be the losers in a decision-making process. If all member states were to take either more extreme or more moderate positions, this would be reflected in the level of polarisation of their positions. It is not clear whether the lowering of the threshold brought by the Lisbon Treaty will result in higher, lower or no change in the level of polarisation, but these are possibilities. Therefore, the analysis will explore whether the models' predictive accuracy differs by the level of polarisation. I apply Esteban and Ray's (1994) measure of polarisation to member states' policy positions on each controversial issue. This measure has been used in a range of studies that examine political polarisation (e.g. Esteban and Schneider 2008). This measure captures the concept of polarisation, while simpler measures, such as the range or standard deviation of positions, do not. Member states' policy positions are more polarised to the extent that two large groups of member states take opposing positions at the endpoints of a policy scale. According to this measure, polarisation is defined by the magnitude of both the alienation between member states that disagree with each other and the

identification between member states that agree with each other. For technical details of the calculation of polarisation see Esteban and Ray (1994) and Thomson (2011: 265). The following analysis distinguishes between issues with a higher and lower than average level of polarisation.

Data

The DEUII dataset is used (Thomson *et al.* 2012), which contains information on 125 legislative proposals, 69 from the EU-15 time period and 56 from the post-2004 time period. An extensive description of the research design and a list of proposals selected can be found in Thomson (2011) and Thomson *et al.* (2006) – the latter for the EU-15 part of the dataset. The proposals were selected on the basis of controversy and importance, which means that they had to be mentioned in EU news sources and key informants had to report at least one substantive disagreement at the EU level. This focus on controversy is entirely appropriate given that we are concerned with the impact of changes to procedural rules. For issues on which all actors took the same position, a lowering of the threshold would not change the outcome predicted by any model. To gather information on the controversies raised by selection of the legislative proposals, researchers conducted 349 semi-structured interviews with key informants. The informants were usually participants in the decision-making processes on which they were questioned. Most were officials from the permanent representations of member states and the Commission. Respondents gave information on the actors' policy positions on the controversial issues, the levels of importance the actors attached to the issues, and reference points. For actors' policy positions, respondents were asked to identify the policy alternative most favoured by each member state 'after the introduction of the proposal before the Council formulated its common position'. Respondents also identified the 'reference point' on each issue, defined as 'the decision outcome that would occur if the legislative proposal were not adopted'. The reference points are used as the disagreement outcomes in the subsequent analyses. Respondents gave their answers in a way that could be expressed as numerical estimates, as in the example in Figure 2 that will be discussed later. The interviews lasted on average 78 minutes, during which respondents gave qualitative information to substantiate their estimates. Many of the interviews were held while the negotiations were underway, while some were held soon after the proposals had been adopted. This interviewing method has been applied in many previous studies (e.g. Bueno de Mesquita and Stokman 1994). Two previous publications tested the reliability and validity of the expert judgements used in the present study with satisfactory results (König *et al.* 2007; Thomson *et al.* 2006).

Analysis

The first part of this section compares the accuracy of the predictions of the procedural model and the two variants of the NBS. The main finding is that

currently use it. By contrast, the EP and several member states, notably France and Spain, argued that the legislative proposal did not go far enough. The EP called for the opt-out to be phased out entirely within three years. This issue led to a breakdown in talks between the Council and EP in the conciliation committee in 2009, as a result of which the opt-out remains in place.

In the case of the proposed working-time directive, the procedural model and the NBS-RP both predict the decision outcome perfectly. With respect to the procedural model, the states that supported the reference point, position 0, comfortably controlled a blocking minority of votes under the Nice rules. Together, these 10 member states held 148 votes. Moreover, these 10 states have 52.94 per cent of the total EU-27 population. So those in favour of changing the opt-out were far short of the required votes and 62 per cent population threshold. The NBS-RP gives the same prediction as the procedural model. As defined above, whenever one of the actors favours the reference point, the reference point will also be the predicted outcome. In this case, the NBS-no RP's prediction is far off the mark. Rounded off to the nearest whole number, the NBS-no RP's prediction is at point 53 on the scale, yielding a massive error of 53 scale points.

Fascinating as such specific controversies are, the questions raised require a more general analysis that abstracts from the details of each case. Despite its poor performance on the working-time directive, overall the NBS-no RP gives the most accurate predictions of decision outcomes. The first column in Table 2 shows the mean average absolute difference between the decision outcomes, the reference points and alternative predictions of decision outcomes. The NBS-no RP has the lowest average error of 23.72 across all 324 controversial issues. This means that the predictions of the NBS-no RP are on average 23.72 points to the left or the right of the actual decision outcome on the 0–100 policy scales. By contrast, the NBS that treats the reference point as the disagreement outcome (the NBS-RP) has the highest error, at 44.03. The procedural model's prediction errors, at 34.32, lie between the errors of the other two sets of predictions.³ These differences in predictive performance are statistically significant ($p < 0.01$) according to a non-parametric sign test.

Table 2 includes information on the distances between the reference points, outcomes and alternative predictions. This suggests that the procedural model and NBS-RP's predictions are generally too close to the reference point. Actual decision outcomes are on average 51.32 policy scale points away from the reference points. The procedural model's predictions, however, are on average only 25.74 policy scale points away from the reference points, while the NBS-RP's predictions are 7.70 policy scale points from the reference points. By contrast, the outcomes predicted by the NBS-no RP are on average 48.96 points from the reference points, about the same distance as the outcomes are from the reference points.

There is a similar pattern of predictive accuracy before and after the 2004 enlargement. Table 3 contains measures of the models' predictive power before and after enlargement. Prior to enlargement, the NBS-no RP generated the

TABLE 2
DIFFERENCES BETWEEN POINT PREDICTIONS OF MODELS, REFERENCE POINTS
AND ACTUAL DECISION OUTCOMES

	Outcome	Reference point	Procedural	NBS-RP
Reference Point	51.32 (34.76, 236)			
Procedural	34.32 (33.30, 233)	25.74 (35.31, 238)		
NBS-RP	44.03 (34.30, 233)	7.70 (19.42, 238)	17.90 (30.18, 235)	
NBS-no RP	23.72 (19.23, 324)	48.96 (23.10, 241)	29.86 (21.78, 238)	40.99 (23.55, 238)

Note: Cells contain the mean absolute difference between the policy positions referred to in the relevant columns and rows. Standard deviation and numbers of cases in parentheses.

most accurate predictions, in line with previous analyses of this part of the dataset (Achen 2006b). Prior to enlargement, the NBS-RP and the procedural model made less accurate predictions, with the NBS-RP being the worst performer. The same pattern in relative performance is evident in the post-2004 controversies.

Table 3 also reports on the relative accuracy of the predictions regarding controversies subject to different procedures. Table 3 divides the cases into issues subject to consultation and co-decision, and into those subject to QMV and unanimity in the Council. The consistent pattern is that under each decision rule, the procedural model and the NBS-RP make less accurate predictions than the NBS-no RP, with the NBS-RP being the worst performer. Only in the small number of cases subject to consultation and unanimity in the post-2004 issues were the procedural and NBS-RP predictions equally inaccurate. Separate analyses not reported here examined whether the models' relative performance differs by policy areas or the numbers of policy alternatives each issue contained (Thomson 2011: 182), which it does not.

Table 4 examines whether the models' relative performance differs by the level of polarisation in member states' policy positions. This is a pertinent analysis considering the possible effects of changes in voting rules. It may be that member states will take more extreme or moderate positions as a consequence of the lowering of the voting threshold introduced by the Lisbon Treaty. Table 4 divides the issues into those on which the positions were more or less polarised than average. Again, the same pattern of predictive performance is found, whereby the NBS-no RP outperforms the other two models regardless of the level of polarisation.

A Counterfactual Analysis of Post-2004 Decision-Making

Let us assume, contrary to the evidence reported in the previous section, that the decision-making process is driven by the formal procedures. Would the differences between the Lisbon and Nice variants of QMV lead to different

TABLE 3
 ERRORS OF THE MODELS IN PREDICTING DECISION OUTCOMES BEFORE AND
 AFTER ENLARGEMENT

EU-15, pre-2004	CNS-QMV	CNS-Unan	COD-QMV	COD-Unan.	All
Procedural	33.23 (33.02, 44)	36.57 (41.05, 23)	31.72 (32.72, 44)	35.75 (34.55, 16)	33.63 (34.31, 127)
BS-RP	40.55 (33.75, 47)	39.09 (40.91, 23)	43.81 (35.59, 43)	38.06 (34.40, 16)	41.07 (35.44, 129)
NBS-no RP	25.40 (21.62, 55)	21.22 (18.58, 43)	24.49 (20.32, 58)	23.47 (16.62, 16)	23.87 (19.22, 172)
EU-25/27, post-2004	CNS-QMV	CNS-Unan	COD-QMV		All
Procedural	34.94 (27.34, 31)	75.00 (27.84, 5)	32.40 (32.98, 70)		35.15 (32.20, 106)
NBS-RP	45.65 (31.76, 31)	75.00 (27.84, 5)	46.65 (32.89, 68)		47.71 (32.62, 104)
NBS-no RP	26.39 (17.22, 41)	26.93 (23.16, 9)	22.12 (18.55, 102)		23.56 (18.48, 152)

Note: Mean absolute errors (s.d., *n*).

TABLE 4
 ERRORS OF THE MODELS BY LEVEL OF POLARISATION OF POLICY POSITIONS IN
 THE COUNCIL

	Polarisation		All
	Low	High	
Procedural	28.70 (31.79, 153)	45.07 (33.69, 80)	34.32 (33.30, 233)
NBS-RP	38.58 (34.14, 154)	54.67 (32.24, 79)	44.03 (34.30, 233)
NBS-no RP	23.20 (19.31, 205)	24.62 (19.14, 119)	23.72 (19.23, 324)

Note: Mean absolute errors (s.d., *n*).

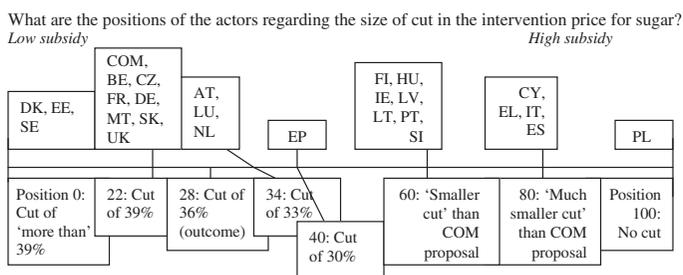
decision outcomes, even under this strong assumption? Consider the controversies that were subject to QMV in the post-2004 period. Suppose the Lisbon rules rather than the Nice rules on QMV were applied to these controversies. Would this have produced different decision outcomes? No: in almost 90 per cent of the controversies, the decision outcomes would have been the same, even under the strong assumption that the formal decision-making rules determine decision outcomes.

To assess the likely impact of the Lisbon double-majority system, I applied a new variant of the procedural model described earlier to all of the post-2004 controversies that were subject to QMV. Instead of using the Nice triple-majority rule to find the location of the QMV pivot, I used the Lisbon rules. There are 106 issues in the dataset subject to QMV in the post-2004 period.⁴ On 93 of these 106 issues (88 per cent) the Lisbon variant of the procedural model gives exactly the same prediction of the decision outcome as the Nice variant. The clustering of actors' policy positions often means that the same position is

occupied by a group of member states that could block a decision on the basis of the Nice rules or the Lisbon rules. Consider, for example, the proposed amendment of the working-time directive, in particular the controversy regarding the abolition of the opt-out (Figure 2). The UK and nine other member states opposed the abolition of the opt-out, preferring the status quo, which in this case was also the reference point, or the decision outcome in the event that the proposal was not adopted. As mentioned above, these 10 member states control 148 qualified majority votes as defined in the Nice Treaty, and approximately 53 per cent of the EU's total population. Therefore, this group of member states comfortably meets the requirements for a blocking group under both the Nice rules and the Lisbon rules.

There are exceptional cases where the lower threshold of the double-majority rule may ease decision-making. One such case was the important proposal to reform sugar production. This was the first important reform of agricultural policy that took place after the 2004 enlargement. The reform had a major effect on the sugar industry in Europe, leading to the closure of many refineries. To obtain and verify the information in Figure 3, 11 semi-structured interviews were held with officials from the member states' permanent representations, the Commission and the European Parliament. The main controversial issue raised by this proposal was the size of the price cut, which would in effect reduce EU subsidies for sugar production. The position of the actor in favour of maintaining the highest level of subsidy is at the right of this line. This position was taken by the Polish government, which called for the current intervention price to be retained. At the left of the continuum, we find the positions of the member states that favoured the lowest subsidies. In this case, Denmark, Sweden and Estonia supported a very large price cut of more than 39 per cent. Intermediate positions are placed between these two alternatives on a scale of 0–100, to reflect respondents' judgements on the political distances between the alternatives. According to the respondents, the legislative proposal favoured by the Commission and several member states was far closer to the Danish position than the Polish position. One

FIGURE 3
THE MAIN CONTROVERSIAL ISSUE RAISED BY THE PROPOSAL ON SUGAR SECTOR REFORM



Note: Proposal CNS/2005/118.

way of operationalising this view was to place the Commission's proposal at position 22 on the scale. This value was first suggested by multiplying the proposed price cut by two and subtracting this from 100 ($100 - (39 \times 2) = 22$). Similarly, Hungary and other states' demand for a cut of only 20 per cent was placed at position 60 on the scale (because $100 - (20 \times 2) = 60$). Greece, Italy, Spain and Cyprus favoured a 'small cut' without specifying the size of the cut. It was clear to the experts that these countries favoured a smaller cut than Hungary and a larger cut than Poland. Since they could not discern which position was closer, they placed these four countries on position 80, exactly half way between Hungary and Poland. Again, the justification for the location of the actors relative to each other is that these locations reflect key informants' judgements on the political distances among the actors.

The procedural model loaded with the Nice rules makes a prediction of position 60 on the policy scale, in line with the position favoured by Finland and other member states. This outcome corresponds to a cut of less than 30 per cent. By contrast, the procedural model loaded with the Lisbon rules makes a prediction of position 22 on the policy scale, in line with the Commission's preference for a price cut of 39 per cent. These differences are caused by the fact that the pivotal position differs, depending on whether the Nice or Lisbon rules are used. Under the Nice rules, the actors located at position 80 (Cyprus and others) occupy the pivotal position. Cyprus, Greece, Italy, Spain and Poland control 99 of the qualified majority votes and 32.90 per cent of the EU-25 population. Therefore, without their support, the other member states were deprived of the 232 votes required to adopt a proposal in the EU-25 (the other states would, however, have more than the required 62 per cent of the population). According to the logic of the procedural model, in this scenario the Commission would make a proposal at position 60 on the policy scale. The pivotal actors located at position 80 would be indifferent between this proposal and the status quo and would therefore accept it. Under the Lisbon rules, Cyprus, Greece, Italy, Spain and Poland could not block a decision, because they only have 32.90 per cent of the EU's population. To block a decision, they would need the support of some of the actors located at position 60 on the scale. Under the Lisbon rules, the actors located at position 60 are pivotal. These actors slightly prefer the Commission's preferred policy (a cut of 39 per cent located at position 22) to the status quo (located at position 100). Therefore, the Commission could have proposed its favoured option, which would have been approved according to the logic of the procedural model. In short, given very specific alignments of actors in terms of their favoured positions, the procedural model generates substantially different predictions of decision outcomes under the Nice and Lisbon rules.

Conclusions

So what effect, if any, will the new Lisbon double-majority rules have? The findings presented here indicate that the formalities of decision-making

procedures, such as member states' voting weights in the Council, tell us little about the actual process of decision-making. The process is defined more by informal, consensual bargaining than by formal procedures. This means that enlargement, even under the Nice rules, did not disrupt decision-making as some people thought it would. The concerns about enlargement were directed primarily toward the durability of the informal norms that structure decision-making in the EU (Schneider *et al.* 2006: 315). Some people were concerned that the new member states might not follow the norms according to which states take into account each other's interests when the formalities of the decision-making procedures do not compel them to do so. Behaviour that violates this norm has been rare. One reason for this is that enlargement was preceded by a long period of adjustment, during which the candidate countries internalised the EU's norms, as well as its laws and procedures (Leuffen and Hertz 2010; Schimmelfennig 2005; Schneider 2009). Prior to accession, policy-makers from the candidate countries watched the EU's decision-making processes closely and even attended Council working group meetings as observers. Furthermore, perhaps most importantly, the new member states are themselves a diverse group of countries. Regarding any given controversy, new member states generally make different policy demands. Previous analytical studies concluded that member states' policy preferences would determine whether enlargement would lead to decision-making paralysis (König and Bräuniger 2004; Steunenber 2001). The diversity in new members' policy demands means that it has not. Because of their diverse policy demands, new member states' representatives soon experienced having a range of different policy allies on different controversies, and being in both majority and minority positions. Such experience makes clear why it is in each actor's long-term self-interest to accommodate other actors' demands, even when the formal rules do not compel such accommodation. Each state's representatives know that they could be in a minority situation one day, a situation in which their country's essential interests are at stake but the formal rules mean they could be outvoted. National representatives can only expect themselves to be accommodated when they are in a minority situation in the future if they behave accordingly with respect to other states that are in such a situation today.

The relative performance of the three models of decision-making considered here suggests that both before and since enlargement, actors have usually found the prospect of failing to adopt a law highly undesirable. This may mean adopting a law that contains compromises or gives discretion to national authorities. However, the prospect that one or more actors may block a decision is generally a remote possibility during the decision-making process. Controversy generally occurs within a broader context of agreement. It is usually the case that actors agree on parts or most of a bill and disagree on other parts. If the actors fail to take a decision, they lose the entire proposal, including the parts they agreed with. Moreover, persistent failures to resolve controversies would damage the long-term relationships among actors (Achen 2006a: 101). I draw this conclusion regarding the undesirability of the disagreement outcome from the findings

presented here. Models that attribute special importance to the disagreement outcome, for example by assuming that actors vote against a bill if they prefer the disagreement outcome, generally make poor predictions of actual decision outcomes.

Another enduring characteristic of the decision-making process is that it generally incorporates the positions of all actors. The best-predicting models are not based on the formalities of the decision-making procedures, but on quasi-utilitarian formulas that weight the positions of all actors relatively equally. This implies that formal procedural rules are not in the foreground of the process. Nonetheless, procedural rules are important. Decision-making processes based on persuasion and cooperative exchange are stronger when they are embedded in institutional structures that clearly allocate rights and responsibilities (Stokman and Vieth 2004: 293). When actors have recourse to legally binding procedures to enforce their power, even if they do not actively use these procedures on a regular basis, they are in a stronger position during informal decision-making processes.

There will be occasions on which the Lisbon rules will make a difference. The counterfactual analyses presented here indicated that if the recent past is anything to go by, these occasions will be rare. These will be occasions on which member states' positions are less polarised, meaning that they take a range of different positions, rather than being clustered around a few policy alternatives, as is generally common. Therefore, the system's ability to cope with enlargement and the change brought by new rules depends crucially on the alignments of actors on different controversies.

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Notes

1. A limitation of the DEU project on which the present analysis is based is that it did not thoroughly consider the possible effects of errors in the measurements of actors' policy positions on the relative accuracy of different models' predictions of decision outcomes. This limitation has been addressed in a recent debate. Using simulated data Slapin (forthcoming 2014) argues that the superior predictive power of bargaining models over procedural models found in the DEU project may be due to measurement error. In a response article, Leinaweaver and Thomson (forthcoming 2014) argue that Slapin's simulated data bear little resemblance to the distributions of policy preferences found in existing empirical evidence and suggested by theory, in that Slapin assumes actors' policy preferences are uniformly distributed. Leinaweaver and Thomson conduct what they argue is a more realistic assessment of the impact of measurement error on model performance. Their assessment incorporates the fact that actors' policy preferences tend to be clustered around a limited number of policy alternatives, and demonstrates that measurement error is unlikely to have biased previous findings.

2. In his empirical analyses, Achen also weights actors' policy positions with measures of their voting power. In separate analyses not reported here (see Thomson 2011: Chapter 9), I also weight actors' positions with their voting weights. The findings show that this does not yield significantly more accurate predictions of decision outcomes.
3. The poor predictive accuracy of the procedural model compared to the NBS-no RP is not caused by the way in which the analysis deals with indifferent member states: i.e. member states that did not have a policy position. Note that to apply the procedural model we must make an assumption, either explicit or implicit, about where indifferent member states are located, while no such assumption is required for the NBS models. For the procedural model I place indifferent actors half way between the reference point and the Commission on issues subject to consultation; for issues subject to co-decision, half way between the EP's common position and the reference point. Indifferent actors drop out of the analyses altogether in the NBS models. If we restrict the analysis to issues on which at most one or two member states are indifferent, the procedural model is still significantly less accurate than the NBS-no RP. On these 166 issues, the procedural model has an average error of 36.45 (s.d. 34.62) and the NBS-no RP an error of 23.66 (s.d. 20.41). The procedural model's predictions are also significantly worse than the NBS-no RP according to the sign test ($p = 0.00$).
4. There are 101 issues subject to QMV from the post-2004 period to which we can apply the procedural model and on which we have decision outcomes. For the present analysis of the impact of the Lisbon rules, we have an additional five cases that were pending at the time of the completion of the study.

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