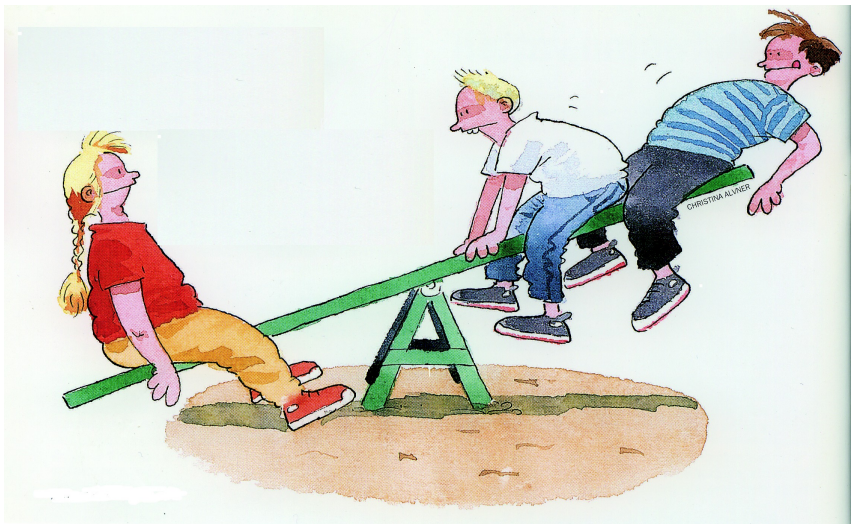


THE WEIGHT OF NATIONS

Four papers on the institutional negotiations in the
EU 1996-2007

Axel Moberg



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Cover illustration: Christina Alvner

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FOREWORD AND AFTERTHOUGHTS

This is a farewell to arms. Between the years 1996 and 2007 the EU held a number of negotiations mainly concerning its institutional setup. The author assisted in some of these negotiations up till 2003 as a humble civil servant. After each of these negotiations I wrote an article, mainly about discussions on the voting rules in Council, and the voting weight given to each of the member states. This was the most sensitive issue in the negotiations, and was part of the “institutional triangle” together with the allocation of seats in the Parliament among member states, and the compositions of the Commission.

I have since been working with other matters, and I am now retired. Therefore I am long out of touch with EU matters, both on institutional and policy issues. However, I think it might be convenient to wrap up my old articles in one package, which would make them more easily accessible.

This book is about parts of the triangle, and the power balance between member states, large and small. It has a heavy focus on the voting rules in the Council, which was what the last fierce battles were about at the end of each of the conferences.

Each of the four papers constitute one chapter. The papers are basically reproduced as they were. The population figures and the projected number of member states are those that were discussed at the time. Only printing errors have been corrected. Some modifications have been made in the tables to squeeze them in. However, all papers are stand-alone, which has caused some duplication. A few sections have therefore been marked with italics and can be skipped by those who have read preceding chapters.

The purpose and issues

The original purpose was to illustrate the arguments which the Swedish government had used in the 1996-97 Inter-Governmental Conference (IGC). In the following papers I gradually grew more and more uncertain whether the views I advanced really were those of the Swedish government. However, I do not believe there were any serious contradictions.

The first chapter¹ intends to refute the allegations made in the 1996-97 IGC, by the large countries, that the successive enlargements had taken place at the expense of their power, and even that it was possible to reach a qualified majority against countries representing a majority of the population.

The second chapter² explains the effects of the Nice voting rules. The main message is that the traditional weighted votes work the same way as before. The only significant change is that Germany got a substantially increased blocking potential through the addition of a majority of the population, and thereby a much stronger, albeit less visible, position than Spain or Poland with almost the same weighted votes.

The third chapter³ deals with the voting rules proposed by the Convention and later included in the reform and Lisbon Treaties. This is the main chapter. It explains why the balance of power changes dramatically in favour of the large countries and also why voting power theories miss the point in decision-making in the EU.

Chapter four⁴ and a postscript deal with the second corner of the triangle, the allocation of seats in the European Parliament (EP). It also shortly discusses the unresolved ideological differences about the nature of the EU. The seats were a secondary issue in all the negotiations, but a rather important one for some of the smaller

¹The Voting System in the Council of the European Union. The Balance between Large and Small Countries, *Scandinavian Political Studies*, 1998, vol. 21, nr 4

²The Nice Treaty and Voting Rules in the Council, *Journal of Common Market Studies*, 2002, vol. 40, nr 2,

³ Is the Double Majority Really Double? The Voting rules in the Lisbon Treaty. A first version was published on the site of Real Instituto Elcano in May, 2007. An updated and condensed version was published in: Cichocki and Życzkowski: *Institutional Design and Voting Power in the European union*. (Farnham: Ashgate, 2010), pp. 19–34. Copyright © 2010

⁴ EP seats: The Politics behind the Math. *Mathematical Social Sciences*, Special Edition, March 2012

member states. It was eventually, in practice left for the Parliament to decide. Groups in the Parliament have tried to make the distribution as proportional as possible, contrary to the treaty's stipulation that it shall be degressive.

Timeline for the negotiations

The 1996 Intergovernmental Conference was held after the enlargement with most remaining EFTA countries in 1995. It ended in May, 1997, without reaching a conclusion on the most burning issues, the "institutional triangle", but with a commitment to address these matters, and make concessions, later. A number of other amendments were decided and included in the Amsterdam treaty.

A new IGC was held in 2000. Its task was to reach an agreement on the issues that were not agreed at Amsterdam, the "the Amsterdam left-overs", in the perspective of the coming eastern enlargement, but it left open a possibility to raise other matters. The negotiations were concluded in December 2000, in some confusion, with an agreement on the institutional changes needed for enlargement and this was included in the Nice treaty.

However, there was a strong pressure not least from the Parliament for a new round, in order to adapt the EU to "modern demands". It was often argued that the original EEC had been designed for six member states (which is not quite true) and that there was a need for a new design and new engine in the car. There were frequent claims for a "constitution" of the same sort as in the member states.

A "Convention" met in 2002-2003 for this and it proposed a Treaty establishing a Constitution for Europe. In substance this was basically the same as the old treaties but it was garnished with "federalist" rhetoric and symbols. The treaty was rejected in referenda in France and the Netherlands. A slightly modified and re-badged version was agreed as the Reform treaty in 2004, and this was rejected in a referendum in Ireland. Finally a short IGC in 2007 decided on a slightly modified version and, with small amendments, after a renewed referendum in Ireland, it was agreed as the Lisbon Treaty.

Unresolved ideological differences

The EU is the result of many different forces: Efforts to create a West-European stability which would prevent new wars, Pan-European idealism, the negotiations about enlarged free-trade in Europe and the wish to increase the competitive edge of European companies, and the wish in some countries to regain some of the past glory and status they once had as great powers.

The debate about the purpose and nature of the EU is almost entirely national. There is not even a good forum for cross-national debate on these issues. One important element is the “federalist” vision of establishing something a classical state structure, with a parliamentary system, where the Commission is a Government, based on a mandate by and responsible to the Parliament, and something like the United States of Europe. Chapter four briefly discusses why it is a fallacy to see the Commission as a “government”. If the Commission was turned into a “government”, a new “Commission” would have to be created.

In broad terms these views are strongest in Germany, the Benelux countries and some other neighbouring countries. Politicians and bureaucrats in these countries often even seem to be unaware that these views are not shared by the public debate in other countries. In other countries, like France, for example, it seems to have been more of a left-right issue. The federalist ideas have never received much support in Britain. They are particularly strong in most of the party groups in the European Parliament. Members who have little of these views in their luggage from home countries, seem to be swept away by the current when they join the party groups in the European Parliament.

All roads do not lead to Rome

One can speculate about why the attitudes are so different in member states. This would deserve a serious investigation. Is the explanation that these views are strongest in the countries that once formed a part of the Holy German Roman Empire, and that these countries have very long standing federalist traditions? A look at the map shows that all roads lead to the capitals of the old nation-states, like London, Paris and Madrid. But they do not lead to Rome or Berlin. Instead they go criss-cross as a result of earlier fragmentation in small principalities.

These basic differences were hardly discussed openly in the negotiations 1996-2007. Proposals were made in instrumental terms, as suggested amendments to the present treaty texts, and there was bargaining over the wording rather than the basic ideas. The only exception was a special session with NGOs which was held during the Convention in the summer 2002, where most of the organisations made strong federalist claims. This was then passed over in silence by the Convention Presidency when it made its final proposals.

The main issue: Striving for consensus

I must admit it took me some time to realise the key to understanding the effects of various voting rules is in the consensual nature of decision-making in the EU. There is a common striving to move forwards and reach an agreement. There is often a hot-house atmosphere in various preparatory bodies in Brussels. Member states vie to appear as the most integration friendly. When a state has problems with a proposal its representative sometimes even speaks apologetically about difficulties in persuading his authorities at home. But a group of member states *can* use its blocking potential to achieve modifications in their interest. The decisive question is whether member states really have the wish or courage actively to oppose an emerging consensus.

If no one actively opposes a decision and makes use of his blocking potential, a decision can actually be made by countries with less than the qualified majority, or even a minority. This can also happen with decisions by unanimity, in which case the blocking minority is one country. This observation can probably be generalized. In bodies which have to make a decision, and decide by unanimity, the pressure for consensus probably plays a powerful role. In such cases it probably often becomes necessary for the chairman, or dominating member, to drive a hard bargain and force opponents to silently accept the proposals. This could be the case with other international organisations or internal cabinet meetings in states.

The power and the glory

The consensual nature and the blocking potential are the reasons why a double majority of states and populations meant a dramatic change in

the power balance. In the double majority, which finally was decided in the Lisbon treaty, the large countries, and in particular Germany, have the same full blocking potential they had in the Nice treaty. But the small and medium sized countries lost the potential they had through the weighted degressive votes. The majority of member states will never play a role, as explained in chapter three.

The reason why most small and medium sized states did not object to this deceptively simple formula was probably that they did not understand the effects, or were unwilling to go against an emerging consensus. Or, at least, that they thought they could keep up the appearance and present it as a solution where they had some real leverage through the majority of member states.

It should be noted said the Eastern enlargements as such also weakened the position of smaller and medium sized member states. All vital discussions between ministers are held in closed circles without officials: restricted meetings, luncheon and dinner session. Before the last enlargement, and even more before the preceding ones, it was still possible to hold a real live discussion in which all member states participated actively. It is possible in a room with 10-15 people, but hardly with 28, let alone with accompanying delegations. Furthermore, even before the last enlargements, the large states often tried to coordinate their positions and the Commission often sought to anchor their proposals among large member states before they were presented. After the last enlargement it probably has become more frequent, and perhaps even necessary, that issues are pre-cooked before they reach all member states.

Finally, it should be said that the obsession with voting weights is not only about member states' power to influence EU decisions. They also have a great symbolical significance, showing which states belong to the "big" or "almost big" ones. This is also the reason why differences in weight between neighbouring countries have been such a sensitive issue.

Voting power

The consensual nature of decision-making is also the reason why voting power theories are not really relevant in the EU context.

Decision-making is the result of bargaining, not of a bingo game. It is also the reason why the well-meaning calculations of the 'effectiveness' of voting rules totally lack realism. The question is not *whether* there will be decisions but *which* decision it will be. The claims that the Nice rules would make it more difficult to reach decisions have unfortunately only caused confusion and helped prepare the ground for demands for a new system, which will increase the power of the large member states dramatically.

Other related issues

The use of qualified majority

The original EEC treaty specified which decisions should be taken by qualified majority and which by unanimity, with the (very marginal) residue by a single majority of member states. The treaty specified that e.g. the customs union, the common trade policy and the common agricultural policy were to be decided by qualified majority. The field for qualified majority has later been enlarged step by step, and there has been a, partly ideologically motivated, drive for further steps. The Maastricht treaty from 1990 added i.a. harmonization of legislation concerning the internal market. The Amsterdam Treaty of 1997 added research policies etc. Already by then a vast majority of the decisions could be taken by qualified majority. In the Convention it was decided to reverse the basic principle, so that all decisions should be by qualified majority, unless the treaty specified otherwise. Majority decisions were extended to a few new fields, but the changes were not dramatic. In essence this only meant that the description was redefined, from the glass being half empty to being half full.

The third corner of the triangle: The composition of the Commission

The small member states have had a strong interest in continuing to nominate a member. Some have argued that it is vital to have a national in the Commission because the Commission makes decisions as a body by single majority. This is said to make the Commission less vulnerable to pressure from outside. The theory is that it may be easy to put pressure on a single member, but more difficult to do so on a majority. Whether this really is the case depends on the way the Commission works. It seems doubtful, if decisions are in practice delegated to each

member and the Commission decisions are only rubbing stamping. President Barroso has once stated that 'his' Commission never votes.

Before the Nice Treaty the treaty stated that the Commission should be composed of at least one person per member state. The four large countries traditionally nominated two, without any treaty provisions about it. As Spain became a member she also got two. When it became necessary to reduce the number of members after the successive enlargement, with more and more Commission members, and smaller and smaller portfolios, the large countries insisted that they had the "right" to nominate two members and were entitled to "compensation" in greater voting weight if they should have to give up one of them. Many solutions with an 'inner circle' were discussed.

At Nice it was decided that, when the EU had reached 18 member states, the members of the Commission should be fewer than the number of member states. This provision was repeated in the Draft Constitution and the reform treaty. After the Irish referendum, which said no to the reform treaty, it was decided to continue with one Commissioner per member state.

One issue which needs to be mentioned is the procedure for the appointment of the Commission. Originally the Commission was appointed by the Council, on nomination from member states. The Parliament was to approve it as a body, but not the individual members. This is still the rule but the Parliament has *de facto* established a different practice where it approves individual members without any support in the treaty, by holding hearings with candidates, and threatening not to approve the Commission as a body.

During the 1996 and 2000 IGCs some member states, and in particular party groups in the Parliament, argued for a more parliamentary procedure where the president of the Commission should be appointed by the Parliament and then decide on the composition as in national governments. There were even ideas of direct election of the Commission. Gradually the president was, at least formally, given increased room for choosing among several candidates nominated by member states. Finally, in the Lisbon treaty it was decided that the parliament should "appoint" the President, on proposal by the

European council and in the light of the preceding elections to the European Parliament. However there is no support in the treaty for the demands by the Parliament that the European Council should propose the candidate of the greatest group in the Parliament.

Other issues

One issue which is close to the weight of nations concerns the six-months rotating presidency. Many solutions were discussed. It was argued from many quarters that the rotating presidency did not give sufficient stability, and doubts were expressed that many small member states had sufficient resources to carry out a presidency. In the Convention it was finally decided to have a permanent elected President of the European Council. It was also agreed to appoint an elected permanent president of the Council of Ministers in the composition of foreign ministers, simultaneously being vice-president of the Commission, at the same time as a joint European foreign service was created. One of the main motives for the latter change was the wish of member states to gain control of the large funds the Commission was sitting one. This will probably also shift the power balance a bit in favour of the large countries, since they have greater opportunities of placing nationals in this organisation.

A great number of other issues were discussed at the IGCs and the Convention but will have to be left out of the scope of this overview. This concerns e.g. provisions on flexible cooperation, human rights, cooperation in justice and home affairs etc.

Prospects

The EU is now in a peculiar situation. The voting rules in the Council, which is to represent member states, for all practical purposes give each member state a voting weight which is directly proportional to its population. And this gives the large member states an over-whelming power. Simultaneously, the seats in the Parliament, which is meant to represent citizens, are allocated by a more or less degressive proportionality.

It is probable that this situation will prevail for the foreseeable future. It is difficult to imagine any political forces which could raise the issue again and bring about a change in the situation. This could probably

only happen if there was a future major crisis in the EU, where a great number of small member states were pitted against the large, which, again, hardly ever happens. (A crisis in the event of a British pull-out, or a Catalanian secession would probably have the opposite effect, and weaken the prospects.)

If and when this situation occurs, it is probable that the solution would have to be a simple one, hopefully less deceptive than the present. My experience from the Nice negotiations is that even a simple formula like the square roots proved to be a bit too difficult for many politicians and diplomats. In the author's view the easiest way would be to somehow merge the two majorities of states and populations into one calculation.

Thanks

My warm thanks go to all the friends and opponents I have discussed these matters with over the years, and who are mentioned here and there in the papers, and to former colleagues. All errors and omissions are my own. I apologise to Adam Smith for the title.

Bibliography:

A number of books and papers have been listed under each of the chapters. Here I would like to add two:

Felsenthal, Dan S. and Machover, Moshe: *The Measurement of Voting Power; Theory and Practice, Problems and Paradoxes*, 1998, a standard work on voter power theory.

Rzążewski, Kazimierz, Słomczyński, Wojciech and Życzkowski, Karol: *Każdy głos się liczy! Wędrowka przez krainę wyborów*. Warszawa 2014. An instructive and entertaining overview of voting procedures in different fields from ancient Athens to our days. Hopefully there will be an English version soon.

1. THE VOTING SYSTEM IN THE COUNCIL OF THE EUROPEAN UNION. The balance between large and small countries

Abstracts:

There is no foundation for the view that the balance between small and large countries has changed through the successive enlargements. In most cases the share of the votes of the larger countries is about 75% of what it would have been if the votes had been distributed in proportion to their population. This figure has changed very little over the years. The great exception is Germany, which is due to the reunification. The effects of the enlargements, and of a greater share of small and overrepresented countries, have been borne to the same extent by all member countries. The relationship between the over/underrepresentation of small and large countries has not changed since 1958. The share of the total population needed for a decision by qualified majority has however fallen, particularly with the accession of Spain and Portugal, and the German reunification, and the majority has in a way become "less qualified". This will continue with the coming enlargements, but the widespread belief that the small countries could outvote countries with a majority of the population is erroneous. The changes in the system that were suggested during the 1996 Inter-Governmental Conference are examined. A change of the same magnitude as these could be achieved through a simple formula based on objective criteria, and would also eliminate the inconsistencies of the present system and the need for new negotiations at each enlargement.

The problem

The central task of 1996 Inter-Governmental Conference of the European Union was to solve the institutional issues facing the Union with the coming enlargement. One important element in that context was the larger member countries' demand for a reform of the voting system in the Council. Similar proposals have been made on earlier occasions, in particular in connection with the successive enlargements, but the matter has not earlier been brought so far as it was at this conference.

Several member countries linked this issue with increased use of qualified majority decisions and with a change in the composition of

the Commission. The conference did not reach an agreement on all these matters. It was, however, decided that the larger member countries, that now nominate two members of the Commission, should give up one of them on the next enlargement of the Union, provided that there had been an agreement to change the voting rules, either through a reweighting of votes or through a double majority system. Qualified majority voting was introduced in a number of new areas.

The discussions on the voting system at the conference raises a number of interesting points. Several aspects have already been discussed e.g. by Madeleine O. Hosli in her article on coalition-making in the Union (Hosli 1996), by Mika Widgrén, Carl-Einar Stålvant, Carl B Hamilton and others (see References). These authors have concentrated on the voting power of individual countries in a game theory context, with a particular focus on whether one country can make a coalition win a vote by joining it, or make it lose by defecting. That is of course of great interest. However, these studies do not deal in depth with the relationship between the relative voting power of the countries and their share of the population, in other words the representativity of the voting system, nor with the effects of the forthcoming enlargements to East and Central European countries.

The purpose of this article is to look at these two aspects. After some general remarks, it looks into the motives and concerns of the different groups of countries, discusses the evolution of the voting system in the European Union and finally comments on the effects of the various models that have been discussed at the conference, or informally during the conference, and adds a few new models.

The article is mainly based on the author's own calculations of figures for the population and the actual votes. Only limited reference is made to the discussions at the conference. The discussions were in fact rather superficial. It is natural that member states were hesitant to show their hand in the negotiations. But there was also very little common analysis of the situation and the effects of various models.

The article focuses mainly on the effects for individual countries and, unlike the articles mentioned above, it does so without making use of Banzhaf's or Shapley-Shubik's indices. Several interesting conclusions

can still be made with less sophisticated methods. Another point is that the indices, while being the correct measure of a country's voting power in a game theory context, are based on the assumption that all coalitions are equally probable and that any given country could be sitting on the critical votes. However, the actual political landscape hardly looks like that. Individual countries with a firm view on a given issue are unlikely to find themselves in a pivotal position. The likelihood is greater for countries in the middle of the road or countries that have a greater interest in trade-offs between different issues.

It should be noted that this article only discusses one aspect of the institutional matters at the conference, the balance between small and large countries, and only one element of this aspect i.e. the voting system, in the cases where decisions are made by qualified majority. It does not deal with other elements, such as the composition of the Commission. Nor are the other aspects studied, for example the balance between supranationalism and inter-governmental cooperation or the balance between the institutions of the Union.

The latter aspects could be of interest. It could be argued that the voting rules should depend on the substance of the matter. However, the basic features of the decision-making in the Council were decided already in the 1950's when the EEC was founded. Some matters should be decided by unanimity, some by qualified majority and the small unspecified rest by single majority. There have been changes in this mix over the years, so that, quantitatively, qualified majority is the rule in well over three fourths of all decisions. The links to the weighting that were made at the conference were however basically of bargaining nature. Some countries could accept more decisions by qualified majority, on the condition that their weight in the voting increased. But there were hardly any links between the substance of the decisions and the weighting.

It should also be borne in mind that the antagonism between smaller and larger countries, which the discussion of the voting system at the conference seems to imply, is rather artificial. In the daily work of the Union the dividing line is rarely between smaller and larger countries, but rather between groups of countries with different political priorities.

Furthermore it should be noted that a formal vote is rarely taken in the decision-making process of the Union. The Presidency rather interprets the discussion in the Council and subordinate bodies in terms of whether there is a qualified majority or not. This should not lead to the false conclusion that the voting power of the countries is unimportant. On the contrary, it is constantly in the minds of the all participants and influences the alliances they try to form in the negotiations. Member states are aware that they can be outvoted and this probably tends to stimulate consensus decisions.

The present system

The present system can of course only be explained in its historic context. It was originally conceived for the Community of six in the 1950'ies and was only slightly modified at the first enlargement in 1973. At each subsequent enlargement the new member countries have been slotted into the existing classes of countries of roughly the same size, or into new classes between them. The number of classes has increased from three to six. No total restructuring has taken place. The percentage of the votes required for a qualified majority have remained at about 71% over the years.

The present system is, intentionally, a degressively proportional system, where the smaller members are somewhat overrepresented, as a rule the more the smaller the country is, and the larger countries somewhat underrepresented. This can be seen as a compromise between the principle "one man, one vote" and the traditional intergovernmental principle "one country, one vote". It reflects the fact that both federalist and inter-governmental elements exist in the Union. This principle has basically not been questioned in the discussions (nor is it the author's intention to do so). The question has rather been how far this degressive principle should go.

The division into classes by size is rather crude and lumps together member countries of rather different size. The differences within each group have increased over the years. The most conspicuous case is that, after the reunification, Germany has not asked for, and not been given more votes. Thus there is now a significant difference in size between the countries that have 10 votes each. The Netherlands with approx. 15

million inhabitants are in the same group as Greece, Belgium and Portugal with approx. 10 million inhabitants, each with 5 votes. On the other hand Sweden and Austria, that are only slightly smaller than the latter countries, with approx. 9 and 8 million respectively, have been given one vote less. (With these inconsistencies, there is hardly any point in trying to find a mathematical formula that describes the present distribution of votes. As a matter of curiosity, however, the formula that seems to come closest is one vote per country and the rest distributed in proportion to the square root of the population.)

The motives for a change

The larger countries base their demands on the allegation that the balance has changed in favour of the smaller countries with the successive enlargements, and particularly with the latest enlargement to Austria, Finland and Sweden. They have often pointed at the difference in number of votes per inhabitant, particularly in the two extreme countries Germany and Luxemburg, and they have often warned against a situation where decisions could be made by a minority of the total population.

However, the concept of "balance" has never been defined. Therefore it is not possible to find an exact answer to what the larger countries were trying to get at the conference. Conclusions will have to be based on the kind of arguments they have been using and proposals they have made. It was probably a mix of motives. In some case they probably concerned the real power of a group of member countries, such as the Mediterranean countries. In other cases the motives were probably less rational, rather concerning the prestige of their country and national pride. To some extent, there seems to exist a notion that the "large" countries and former great powers should be seen as a group with a special status and somehow qualitatively different from the smaller countries, or even that the votes should reflect the "political weight" of a country rather than the size of the population etc. It has in fact been suggested that the larger countries should be compensated, as a group, for the loss of influence they are said to have suffered.

One conclusion is, however, that the larger countries do not seem to be primarily concerned about the fact that they are underrepresented in the present system. None of them has taken the trouble to show any

figures about it. No proposals about a fully proportional system have been made.

Nor does it seem likely that the larger countries are aiming at a system where they can get a qualified majority, by their combined votes, even against the will of smaller countries. Ideas about a directorate of the larger countries have existed (e.g. confidential proposals by General de Gaulle made in connection with the first enlargement), but very few statements at or in connection with the conference can be interpreted in such a way. The proposals that the larger countries have made at the conference would not give those effects.

What the larger countries seem to have been particularly preoccupied with at this conference is rather keeping the present (or restoring past) possibilities for a few of them of blocking a decision. This is important since decision-making in EU is largely by blocking minority. The discussions of weighting of votes during the latest enlargement negotiations and the Ioannina compromise were about just that.

In the EEC 6 one large country could block a decision with the support of one smaller country. In EC9 and 10 one large and two medium-sized countries were necessary to block a decision. After the accession of Spain and Portugal at least two large and one medium-sized country were necessary. Now two large and two medium-sized countries, or three large countries, are required for a blocking minority. The possibilities of the larger countries to block a decision will continue to diminish in the same way with the future enlargements.

Another line of argument that was used to some extent, is that the percentage of the population that the countries behind a qualified majority represent has decreased. This will be examined in the section on the effects of the enlargements.

The present balance

The over- or underrepresentation of each country can easily be calculated as the ratio between its share of the votes and its share of the population. It shows the difference between the present situation and the share that the country would have had, if the votes had been distributed in proportion to the population. If the ratio is below 1, the

country is underrepresented. If it is over 1, the country is overrepresented. The figures for individual member countries, including EU26, based on one of the extrapolations made at the conference, can be seen in table 1. Another measure for the same relationship, which has often been used in the public debate, is to calculate the number of inhabitants each country needs for one vote. The practical disadvantage of that measure is that it is necessary to compare the figures to the average, in order to see which countries are over- or underrepresented. The table shows that most of the larger countries have about 75% of the votes they would have had, if the system had been fully proportional to the population. The most important exception is Germany. (Spain, which is one of the countries that insist most on an increased weight in the voting, is the country that is closest to a proportional representation, with about 10% of the votes and 10% of the population. If its share of the votes were increased substantially, it could become overrepresented.)

The overrepresentation of the medium sized and smaller countries, on the other hand, is greater. But the point here is that this does not lead to such a great underrepresentation of the larger countries, precisely because these countries have a small weight in the comparison.

As a rule the overrepresentation is greater, the smaller the country is. An exception is Sweden and Austria that have somewhat fewer votes per inhabitant than the slightly larger countries Greece, Belgium and Portugal. This is the only case where, contrary to the basic rule, larger countries are favoured in relation to smaller countries. The country that is most overrepresented in relative terms is, of course, Luxemburg.

In absolute terms (actual votes compared to the votes each country would have had if the 87 votes had been distributed in proportion to its population) the picture is slightly different. The most underrepresented country is still Germany with about 9 votes less than the proportional distribution. The other large countries have about 3.5 votes less, Spain 1.28 less, Netherlands 1.4 more, and most of the smaller countries have 1.8-2.2 votes more. The most overrepresented countries are Portugal, Belgium and Greece with 2.6-2.7 votes more.

Table 1: Over/underrepresentation of Member States in EU15 and EU26. Source for population: Eurostat

	Pop.	EU15	%			EU26	%	
	1995	Votes	pop	votes	ratio	pop	votes	ratio
Germany	81.538	10	22	11.5	0.52	17.1	7.58	0.44
UK	58.503	10	15.7	11.5	0.73	12.2	7.58	0.62
France	58.020	10	15.6	11.5	0.74	12.1	7.58	0.62
Italy	57.268	10	15.4	11.5	0.75	12	7.58	0.63
Spain	39.177	8	10.5	9.2	0.87	8.2	6.06	0.74
Poland	38.390	8				8.03	6.06	0.75
Romania	22.840	6				4.78	4.55	0.95
Netherlands	15.424	5	4.2	5.7	1.38	3.23	3.79	1.17
Greece	10.442	5	2.8	5.7	2.05	2.19	3.79	1.73
Czech Rep.	10.300	5				2.16	3.79	1.76
Belgium	10.130	5	2.7	5.7	2.11	2.12	3.79	1.79
Hungary	10.110	5				2.12	3.79	1.79
Portugal	9.912	5	2.7	5.7	2.15	2.07	3.79	1.83
Sweden	8.816	4	2.4	4.6	1.94	1.85	3.03	1.64
Bulgaria	8.770	4				1.84	3.03	1.65
Austria	8.039	4	2.2	4.6	2.13	1.68	3.03	1.8
Slovakia	5.350	3				1.12	2.27	2.03
Denmark	5.215	3	1.4	3.4	2.46	1.09	2.27	2.08
Finland	5.098	2	1.4	3.4	2.51	1.07	2.27	2.13
Lithuania	3.700	2				0.77	2.27	2.93
Ireland	3.579	2	1	3.4	3.58	0.75	2.27	3.03
Latvia	2.560	2				0.54	2.27	4.24
Slovenia	1.950	2				0.41	2.27	5.57
Estonia	1.530	2				0.32	2.27	7.1
Cyprus	0.742	2				0.16	1.52	9.76
Luxemburg	0.406	2	0.1	2.3	21	0.08	1.52	17.8
Total EU15	371.619	87						
EU26	477.809	132						

As can be seen from table 2, the ratio for all member countries has changed very little since 1958, or since they joined the union. The ratio for most of the larger countries has fallen from an average of 0.8 to 0.73-0.75. The original ratio for France was originally somewhat higher, because France was smaller than the other large countries in 1958, but this difference has now disappeared. The great exception is Germany, whose ratio has fallen considerably, but this is mainly attributable to the reunification.

Proportional changes for large and small countries

The proportion between the ratios for smaller and large countries has not changed. All member countries have given up the same proportion of their share of the votes to the new member countries. Also the effects of an increased share of smaller, and overrepresented, member countries have been borne to the same extent by all member countries. The larger countries have become somewhat more underrepresented, but the smaller countries have also become proportionally less overrepresented. It also affects the ratio of the new member countries.

The effects of the increased share of smaller and overrepresented countries become obvious if one makes the mental experiment of enlarging the Union with a few larger countries, such as Russia, Ukraine and Turkey. In that case the ratio increases and larger old member countries become less under-represented and the smaller countries more overrepresented.

In fact, this phenomenon has already occurred with the accession of countries that were larger than the average, such as the UK and of Spain. Another example is that, before the German reunification, the ratios for most of the larger countries were close to the present figures. After the reunification the ratio for Germany fell sharply, but the ratio for all other countries, including the larger ones, increased. Then, at the latest enlargement, the ratios for all countries decreased somewhat.

"Less qualified" majority

Another effect of the enlargements is that the theoretically smallest percentage of the population required to reach a qualified majority diminishes. The last row in table 2 shows that the greatest change took place with the accession of Spain and Portugal, when it became

possible to outvote two of the largest countries. The second largest was the German reunification. This will continue with coming enlargements. The widespread belief that a number of small countries have enough votes to outvote countries with a majority of the population is erroneous. Nor will it be true if the present system were continued in an enlarged Union. Even in an EU of 26 or 27 a majority, if tiny, of the population will be required for a qualified majority of the votes. (It should be noted that the percentage is highly dependant on the number of votes given to the new member countries that fall outside the present groupings. If Latvia, Slovenia, and Estonia were given 3 votes each, as in table 1, the majority would only be 50.3%. If they were given 2 votes, the minimum majority would be 55.2%. Even fewer votes have been suggested.) In any case the minimum percentage of the population does diminish and the qualified majority becomes less qualified. This is a valid argument for changing the voting system.

One way of addressing these problems is to change the threshold for qualified majority rather than the weighting of the votes. However, that idea did not receive much support at the conference. On the contrary, there is wide support for the idea that the threshold should be maintained so that the decision-making at least does not become more cumbersome.

Effects for "coalitions"

It is easy to appreciate the difficulties in identifying consistent coalitions. The position of a country is not a simple dichotomy, such as free-trade/protectionism, but rather a question about the priority each country gives to different interests. A country may take a more free-trade oriented position in one matter, and less so in another matter. A country may have common interests with another country on one issue, but with a third country on other issues. The positions of countries change over time. Even so, a number of factors, such as sector interests, administrative and political traditions, domestic political climate and agenda give the individual countries a profile that is not likely to change radically in the short run. The priority given by some countries to for example free trade, environmental matters, Mediterranean agriculture or transparency will probably not change drastically after each election, even if changes do occur. This gives some possibilities to

identify reasonably stable interest groupings, which Hosli does at the end of her article.

The calculations of over/underrepresentation can of course also be applied to groups of countries, or possible coalitions. It should be noted that, for dichotomous groups, an increasing underrepresentation of one group means an increasing overrepresentation of the other. If one group gets more “underrepresented”, the opposite group become more “overrepresented”. (This was not the case for individual member states above.) Any classification of countries as belonging to one group or the other is of course rather subjective and should be used with care. The conclusions depend highly on the composition of the group.

Table 3 shows how the ratios for selected groups have developed since EEC6. It is, of course, is not quite realistic since the political agenda and the profiles of all countries have changed in these 40 years, but it may indicate some trends. If one departs, just as an illustration, from Hamilton's classification of countries as most free-trade oriented⁵ or environmentally minded, it can be seen that both groups have become less overrepresented over most of the successive enlargements and will become underrepresented in EU26. If one chooses less generous definitions⁶, the free trade group becomes increasingly underrepresented, and the environmentalist group will also become underrepresented in EU26, and would become more so if the United Kingdom were included in that group. The underrepresentation of these groups, where several countries are more or less overrepresented, is of course due to the great weight of the Germany and the United Kingdom. The pattern seems to be broadly the same for the group of present “net contributors” to the EU budget, but the composition of that group can change rapidly. This could give some clue to the possible policy effects of a change in the weighting. The figures do support Hosli's view that the last enlargement meant some reinforcement of the “Northern” flank of the Union, but it could also be

⁵ Free trade: The Nordic countries, UK, Germany, Austria, Benelux countries
Environment: Nordic countries, Germany, Austria, Benelux countries

⁶ Free trade: Germany, UK, Netherlands, the Nordic countries
Environment: Germany, Netherlands, Austria, Nordic countries

argued that this was rather a correction of the earlier underrepresentation of some of these groups.

Table 3 Over/underrepresentation of selected groups							
	EEC6	EC9	EC10	EC12	EU12*	EU15	EU26
Free trade**	1.2	1.05	1.02	1.01	0.95	1.02	0.88
Revised	0.91	0.91	0.88	0.87	0.81	0.86	0.74
Environm**	1.2	1.22	1.18	1.17	1.03	1.14	0.99
Revised	0.91	0.99	0.96	0.95	0.82	1	0.87
* After German reunification ** Hamilton							

Any forecast of the effects of coming enlargements will of course have to be based on speculation. It may be assumed that none of the present Candidate countries will join the more environmentally oriented group, and possibly not the free-trade group. Whether some of them will be in favour of a CAP reform or become net contributors will depend largely on the outcome of the accession negotiations and the development of EU policies. It can however be noted that the present members of the free-trade and environmental groups (at least in the stricter sense), would lose their present blocking minority, if the present distribution of votes were continued into EU26. It could be restored through a reform of the system.

Different proposals: Reweighting of votes

The proposals for a change in the weighting of votes that have been advanced more or less formally, are all about an increase in votes for the four largest countries, and in some cases Spain and the Netherlands. Hardly any specific reasons have been given for the rather arbitrary changes that have been suggested. The proposals should above all be seen in the light of the blocking minorities that will be possible.

In some cases it has been proposed to increase the number of votes for all countries, but with a greater increase for the largest. One example is the final proposal from the Dutch Presidency, which is the only one that has been published. The proposal was that the votes of the five

largest countries should increase to 25 (2.5 times), those of Netherlands to 12 (2.4 times), those of the other countries should double and those of Luxemburg should increase 1.5 times. A few other proposals were based on the idea that the number of votes should be decreased by the same absolute figure, which would mean a greater relative reduction for the medium-sized and smaller countries.

The Dutch proposal would mean that a qualified majority would require the support of countries with at least 61% of the population, in the present Union, and that a blocking minority would require at least two of the largest countries and one country of the size of Sweden or Austria. In EU26 the threshold would be 56,7% of the population for a qualified majority and at least three of the largest countries and one country of the Sweden/Austria size for a blocking minority. Several of the proposals advanced by other countries were of approximately the same magnitude. Proposals of this kind would to some extent increase or restore the possibilities of the larger countries to block.

The smaller countries have been hesitant to accept these changes for a number of reasons. Basically it would diminish their weight in the decision-making and it would be difficult to explain to the public. A number of other objections can also be made. The changes are quite arbitrary. If the idea is to give greater weight to population, the fact that Germany is given the same number of votes as the other larger countries is hardly logical. The disadvantage for Sweden and Austria remains or even increases in some proposals. Furthermore, the proposals do not give a clear answer to what the voting weight should be of the candidate countries that fall outside the present classes. (Is Latvia a small Ireland or a big Luxemburg, is Romania a big Netherlands or a small Spain, etc?) This would make new negotiations necessary, which increases the risk that the smaller countries would have to make further concessions at a later stage of the enlargement.

Percentage of the population as a benchmark

One of the proposals at the conference was that member states should first decide a minimum percentage of the population that should be required for decisions by qualified majority, and then decide whether that percentage should be attained through a reweighting of votes or

through a system with double majority. There are several difficulties with this idea.

First, the method conventionally used for calculating the percentage of the population behind a qualified majority is somewhat unreliable. The method is to find the combination of small and large countries, with the lowest percentage of the population, that can reach a qualified majority (or the largest minority that can be outvoted). Both groups will consist of a rather unpredictable mix of small and large countries, and small changes in the percentage can lead to great changes in the composition and the number of votes.

Secondly, since the voting system is not proportional, a reweighting intended to give a minimum majority of say 60% of the population, and a double majority system at the same level, do not give the same results. This is particularly the case with Germany's position. Furthermore, a reweighting of that size can be made in any number of ways. How the distribution is made is of course of great interest to member countries.

Third, and most important, a reweighting based on a certain required percentage of the population for qualified majority could lead to more drastic increases in the votes of the larger countries than other proposals, and in some cases absurd consequences. One of the reasons for this is that some of the large countries must belong to the group that is outvoted, and the number of votes increases also for those countries. This can push the required increase in votes for the larger countries upwards disproportionately.

The Dutch proposal, 25 votes for the larger countries (which corresponds to 12.5 since the votes of practically all countries were at least doubled), gave a minimum percentage of the population of 57.6 in EU26. Clearly a population threshold of 60% in EU26 would require an even greater increase in votes for the largest countries. Table 4 below shows the number of votes that the larger countries needed to be given, in order to make sure that a qualified majority of the votes can not be reached unless it is supported by approx 70% of the population or, more important, that countries with more than the opposite percentage can always block a decision. The example is only meant as an

illustration of the difficulties with this approach. (The result depends largely on the assumptions that are made for the intermediate countries. In this example the larger countries are given the same number of votes, Spain is given 80% of that figure, Romania and Netherlands a number in proportion to that, and all the other countries remain unchanged).

Table 4 Votes required for guaranteed % of the population						
EU26	60%		62%		65%	
	votes	ratio	votes	ratio	Votes	ratio
Germany	18	0.59	20	0.61	29	0.69
France etc	18	0.83	20	0.86	29	0.97
Spain	14	0.96	16	1.02	23	1.14
Romania	9	1.06	13	1.1	15	1.11
Netherlands	7	1.22	7	1.14	11	1.01
Greece etc	5	1.29	5	1.2	5	0.93
Sweden etc	4	1.22	4	1.14	4	0.88
Denmark etc	3	1.54	3	1.44	3	1.12
Ireland etc	3	2.25	3	2.1	3	1.63
Luxemburg	2	13.2	2	12.3	2	9.61
Min pop*	60,3		62,5		65,1	
* Actual percentage of total EU population needed for QMV						

The examples in table 4 (where the figure for only one country in each group is given) show that, if 65% of the population is to be required for qualified majority of the votes, some of the larger or intermediate countries could become overrepresented and several smaller countries underrepresented. It should also be noted that, as long as the distribution of votes is not proportional to the population, a coalition that has the necessary percentage of the population can not always reach a qualified majority. Vice versa, a group of countries may be able to block a decision, even if it does not reach the required percentage of the population.

Double majority: votes and population

The idea of a double majority consisting of the qualified majority of votes in the present system and a certain percentage of the population, has attracted considerable attention. It has often been advocated by Germany. One of the elegant points about the model is that it gives Germany a greater voting power than the other large countries, without demonstrating this as clearly as a reweighting model.

The actual effects of the two components can only be compared to each other, and to reweighting models, by the share that a country would hold of the blocking minority in each respect. (This is because the threshold for a qualified majority, and for a blocking minority, is not the same percentage for the votes and for the population criterion.) The effects of a double majority system depend on the level of the population criterion. Table 5 shows that the only effect in the present Union, at the levels that have been discussed most, would be that Germany got a greater blocking power, greater than it would get with any of the reweighting proposals. At 60%, in the present Union, Germany alone would have 55% of a blocking minority by the population, against 38% by votes in the present system. The other large countries would hardly gain anything in EU15, but get increased blocking power when the Union has been enlarged with several new countries, or if the population criterion were set higher. It is interesting to note that, in the present system, the support of countries with at least 58.2 per cent of the population is necessary for a qualified majority. If the level of 58.5 per cent were maintained also in EU 26, the three largest countries would have a blocking minority also then. If the threshold were set higher, other blocking minorities of three countries or less would become possible. In order to give any advantage to the smaller countries the criterion would have to be set extremely high (85-90%).

The increased blocking possibilities for the larger countries, and the more complicated decision-making procedure, have been the most important points in the criticism of the system. Another point is that this model is in a way based on two population criteria, the votes, which are partly based on the population and one explicit population criterion. Some of the smaller countries have, however, shown some sympathy for the idea, because it could be presented to the public

opinion more easily than a reweighting. It could be argued that the old weighted votes still remain unchanged, but that a population criterion has been added as an extra safety catch. The question is how realistic that view is. Simple logics say that, if you introduce a new leg in the decision making procedure, it is not likely that you will put the same weight on the old leg as before. There could even be a risk that the weight is shifted over to the new leg, so that population would become the main criterion and that the old weighted votes are relegated to a secondary role as a safety catch.

Table 5	Share of blocking minority through votes and population criteria							
	EU 15				EU 26			
	votes	population			votes	population		
		55%	60%	65%		55%	60%	65%
Germany	38.3	48.8	54.9	62.7	25.8	37.9	42.7	48.8
France etc	38.3	34.7	39	44.6	25.8	27	30.4	34.7
Spain etc	30.7	23.7	26.7	30.5	20.7	18.2	20.5	23.4
Romania					15.5	10.6	12	13.7
Netherlands	19.2	9.27	10.4	11.9	12.9	7.17	8.07	9.22
Greece etc	19.2	6.25	7.03	8.04	12.9	4.86	5.46	6.24
Sweden etc	15.3	5.25	5.91	6.75	10.3	4.1	4.61	5.27
Denmark	11.5	3.1	3.49	3.98	7.75	2.43	2.73	3.12
Ireland etc	11.5	2.12	2.39	2.73	7.75	1.66	1.87	2.14
Luxemburg	7.66	0.24	0.27	0.31	5.17	0.19	0.21	0.24

Double majority: countries and population

This proposal is about a double majority, consisting of a (single) majority the population and a (normally two thirds) majority of the number of countries. It dispenses completely with the weighted votes. This is the model that Hosli was mainly discussing in a previous article (Hosli 1995), but it only received limited attention at the conference. The effects of the population criterion in this model would be the same as in the previous one, but it does not contain double population criteria.

The special problems are connected with the share of the countries that should be required for a qualified majority. A criterion of 2/3 of the countries would mean that in EU26 a decision can be blocked by a minority of one third of the countries representing 5-6% of the population, against at least 12% today. A lower share, for example a single majority, would avoid that problem, but the combined effects of both criteria would then make the majority "less qualified" than in the present system.

However, this model is the only one that takes care of one special problem. If the present system were continued into a Union of 26, half the number of member states would be sufficient to reach a qualified majority of the votes. In a EU27 (including Malta) it would be possible for the larger and a handful of the medium-sized countries to reach a qualified majority of the votes against a majority of the number of countries. If there is a reweighting of the votes this would happen at an earlier stage. This aspect has hardly been discussed at the conference.

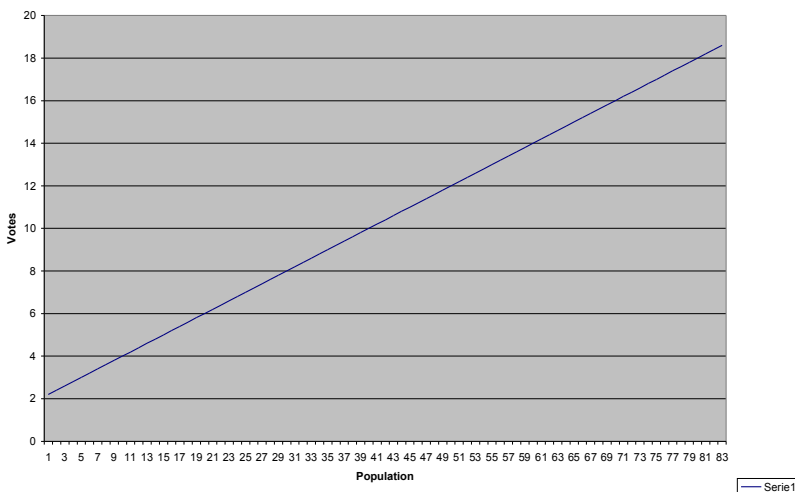
Possible solutions?

If there is a political will to do so, it is certainly possible to find a generally acceptable formula for reweighting of the votes. It should remain a compromise between a proportional system and equal representation of all states, a degressive proportionality that gives some overrepresentation to the smaller countries. It would help if it were based on objective and coherent criteria, so that the matter could be settled once and for all, and no new negotiations would be necessary at future enlargements. It would also help if the absolute figures for the votes were higher than in the present system, because the figures for individual countries would in that case not be so strongly affected by how they are rounded off. (For one of the smaller countries, the way the figures are rounded off can mean a difference of 25-50%, in positive or negative terms, and can thus have greater effects than the choice of system.) Any voting model could be supplemented by a provision that a decision must be backed by at least half the number of member countries. The overrepresentation of the smaller countries can basically be achieved in two ways.

One way is to give each country a number of votes which is the sum of two elements: a number of votes, regardless of the size of the country

(e.g. the two votes Luxemburg has now), and then some additional votes in proportion to each country's share of the population. The balance between large and small countries in such a model will be decided by the relationship between the total number of "basic" votes and the total number of "proportional votes". If the share of "proportional" votes is low the winners will be the smaller states and possibly Germany. The proportions of 1 basic to 1.1 proportional votes (with the same number of votes for Germany and the other three) would come closest to the present weighting, in an ordinary least square calculation of the shares of the votes. If the share of "proportional" votes is high, the winners will be the larger states. The number of proportional votes alone would decide the division of the countries into classes. About 75 proportional votes would give a division into "natural clusters", where there is a substantial difference in size between the groups that are given different number of votes. This figure would correspond to one vote for each increment (rounded off to) approx. 5 million inhabitants. The problem with this model is that it creates an opportunity for endless and repeated negotiations about the components.

Figure 1: Basic and proportional votes



The other possibility is some kind of bent curve. One very simple and practical model could be based on a number of votes, corresponding to the square root of the population of the country in millions. This would give a consistent degressive proportionality. One million inhabitants would give 1 vote, 4 million 2 votes, 9 million 3 votes etc. up to 8 votes for the largest countries, or possibly 9 for Germany. This would give the larger countries almost the same increase, and roughly the same distribution, as the Dutch proposal. It would also eliminate the inconsistencies of the present system and give a division into natural clusters. This model could also be of interest to the smaller and medium-sized countries, because the principle it is based on gives some certainty that the voting system will remained unchanged. This is because the system would be difficult to change, in order to increase the voting power of one group or another. It is, of course, possible to make optical changes to the number of votes or to fine-tune the model, by multiplying the square root or the population by some constant factor, but the proportions between the votes of different countries will remain the same (apart from effects from rounding off the figures). The only way of changing the balance is by adding to or subtracting votes from the figures that the formula gives. The effects of the various models are summarized in table 6.

Figure 2: Votes in proportion to square root of population

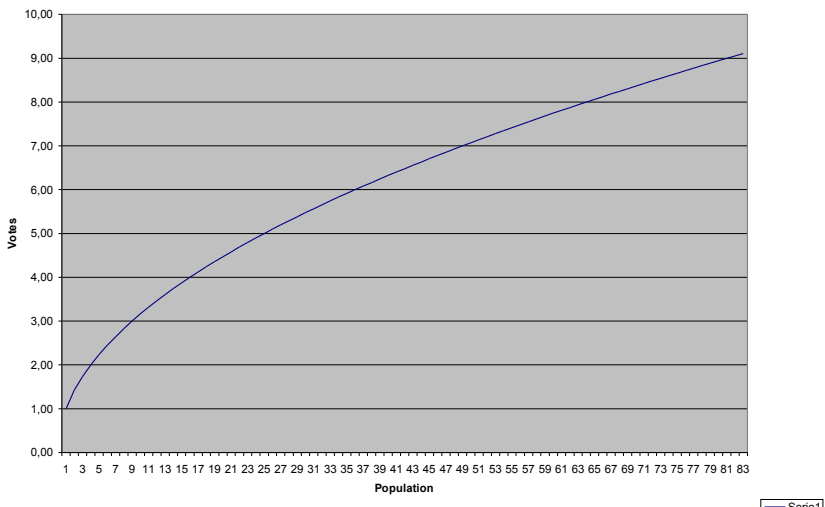


Table 6	Effects of various proposals in EU26								
	Dutch formula I			Basic and prop.			Square root		
	votes	%	ratio	votes	%	ratio	votes	%	ratio
Germany	25	8.83	0.52	14	9.59	0.56	8	8.6	0.5
UK	25	8.83	0.72	14	9.59	0.78	8	8.6	0.7
France	25	8.83	0.73	14	9.59	0.79	8	8.6	0.71
Italy	25	8.83	0.74	14	9.59	0.8	8	8.6	0.72
Spain	20	7.07	0.86	10	6.85	0.84	6	6.45	0.79
Poland	20	7.07	0.88	10	6.85	0.85	6	6.45	0.8
Romania	12	4.24	0.89	7	4.79	1	5	5.38	1.12
Netherl.	12	4.24	1.31	5	3.42	1.06	4	4.3	1.33
Greece	10	3.53	1.62	4	2.74	1.25	3	3.23	1.48
Czech R.	10	3.53	1.64	4	2.74	1.27	3	3.23	1.5
Belgium	10	3.53	1.67	4	2.74	1.29	3	3.23	1.52
Hungary	10	3.53	1.67	4	2.74	1.29	3	3.23	1.52
Portugal	10	3.53	1.7	4	2.74	1.32	3	3.23	1.56
Sweden	8	2.83	1.53	4	2.74	1.48	3	3.23	1.75
Bulgaria	8	2.83	1.54	4	2.74	1.49	3	3.23	1.76
Austria	8	2.83	1.68	4	2.74	1.63	3	3.23	1.92
Slovakia	6	2.12	1.89	3	2.05	1.84	2	2.15	1.92
Denmark	6	2.12	1.94	3	2.05	1.88	2	2.15	1.97
Finland	6	2.12	1.99	3	2.05	1.93	2	2.15	2.02
Lithuania	6	2.12	2.74	3	2.05	2.65	2	2.15	2.78
Ireland	6	2.12	2.83	3	2.05	2.74	2	2.15	2.87
Latvia	3	1.06	1.98	3	2.05	3.84	2	2.15	4.01
Slovenia	3	1.06	2.6	2	1.37	3.36	1	1.08	2.63
Estonia	3	1.06	3.31	2	1.37	4.28	1	1.08	3.36
Cyprus	3	1.06	6.83	2	1.37	8.82	1	1.08	6.92
Luxemb.	3	1.06	12.5	2	1.37	16.1	1	1.08	12.7
	286			146			93		

Conclusions:

The main conclusion of this article is that there is no foundation for the view that the balance between small and large countries has changed with the successive enlargements, at least not in terms of representativity. But it is a fact that the minimum percentage of the total population, which the countries behind a qualified majority decision must represent, has diminished and will continue to do so with the future enlargements. That is one valid argument for a change in the voting system. How far this change should go is a purely political matter. It concerns both which distribution of the actual voting power the countries can accept and how a change can be presented in the public debate. No mathematical formula can say what is reasonable. However, most of the suggestions made at the conference were of about the same magnitude as the proposal of the Dutch Presidency. If that magnitude is acceptable, the formulas above can make the system less arbitrary than the present system or the various proposals. Especially the formula based on the square root of the population would give the smaller countries some guarantee against repeated revisions, where they might have to make concessions several times at the future enlargements.

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2. THE NICE TREATY AND VOTING RULES IN THE COUNCIL

Abstract

The paper examines debates on institutional reform in the intergovernmental conference (IGC 2000) that culminated in the Nice summit, and the effects of various proposals. The main issues were the indirect power member states got through blocking minorities and how the outcome could be presented at home. The changes were rather modest, with two exceptions. A new population criterion gives Germany greater blocking power than the other large countries and preserves the possibilities for three large countries together to block in EU27. Spain's voting weight striking increased substantially. The new blocking possibilities will affect the relative bargaining position of countries rather than the Union's decision-making capability.

The weighting of votes in the Council of Ministers of the European Union (EU) has been constantly revisited in past decades, particularly each time the EU has enlarged and especially before the last enlargement in 1995. Where the Council decides by qualified majority votes (QMV), each state receives a certain number of votes. A certain number of the total votes ('the threshold') are required for a qualified majority. If that number is not reached there is a blocking minority. On several occasions the larger EU countries have demanded a revision of the weighting of votes in their favour, claiming that the enlargements have weakened their relative position.

*Together with the composition of the Commission, the weighting of votes under QMV was one of the key issues at the intergovernmental conference held in 1996-97 (IGC 96). The main alternative considered was a variant of double majority, in which a decision required a coalition of states representing both a qualified majority of the votes and a majority of the Union's population. Member states failed to agree on these issues when the Conference was concluded at the European Council in Amsterdam in June 1997. However, they agreed on a protocol to the Amsterdam Treaty, which stated that the Commission would consist of one citizen from each Member state after the next enlargement, provided there had in the meantime been an agreement to change to the voting system, either through a reweighting or a system of double majority, that would **i.a.** give compensation to those countries that lost*

a second Commissioner.⁷ A separate declaration also was agreed which stated that special consideration should be given to the particular situation of Spain when the voting rules were decided.

The voting rules, the composition of the Commission, and the extension of QMV to more categories of decision were often referred to as the 'Amsterdam left-overs'. They were the main task for the next intergovernmental conference, which started in February 2000 and ended with the European Council meeting at Nice in December 2000 (IGC 2000).⁸

The outcome concerning the voting rules was a rather moderate reweighting with a higher threshold for decisions, and with a provision that a qualified majority must also include a majority of states. It also included a possibility for a state to request a 'verification' that the majority represents at least 62 per cent of the EU's population.

The changes will enter into force in 2005 (provided that all member states have ratified). Consequently, there is no legal link between the enlargement and the institutional reforms. If there is an enlargement before 2005, it will be necessary to agree a transitional regime. If there has not been an enlargement by 2005, the changes will still take place for present member states.

The purpose of this article is to analyse the arguments that were used at IGC 2000, the effects of the various options that were discussed, and the final outcome. The ambition is to provide a more realistic picture of the results than many other studies. The analysis avoids revealing the positions of individual states, except where these have been made public.

Earlier studies on EU voting rules

Academic discussion of voting rules in the EU has been dominated by mathematical a priori models. Most analyses have been based on

⁷ In an EU of 15, the Commission has 20 members, with Germany, France, Italy, the United Kingdom (UK), and Spain traditionally nominating two and all other member states nominating one.

⁸ The paper is based on the author's work as Swedish civil servant during the Conference, but the conclusions are entirely the author's own and are not necessarily shared by the Swedish Government.

Penrose's measure of voting power and have used Banzhaf's or Shapley-Shubik's power indices. The purpose has usually been to measure the respective power of countries and coalitions, and to evaluate different possible voting rules in terms of (inter alia) their equitability, majoritarianism and effectiveness in decision-making. (Baldwin et al, Felsenthal and Machover, Widgrén 1995, Hosli 1995, 1996)

In the author's view this approach has serious weaknesses, which mainly derive from the basic assumptions of the theories. The concept of power is a product of the likelihood that the vote of a given country will determine whether a coalition will win or lose. The probability is usually calculated on the basis of the total share of all possible situations where this could happen. Crucially, most studies are based on the postulate that all situations – that is, all theoretically imaginable coalitions of states -- are equally likely. The Banzhaf index measures the power of one country in relation to that of the others.

However, it is very doubtful that this concept of power is relevant in EU politics. There is hardly any indication that member states were actually seeking power in that sense in IGC 2000. Instead they were trying to make sure that they could safeguard their essential national interests, together with other like-minded countries, whether they had a pivotal position or not. As will be seen, this was mainly a question of the possibility to block decisions.

Usually, states have a rather stable set of national interests, which in most cases are basically the same even after a change of Government. This means that the positions of states are not at all at random, and that the vast majority of the millions of theoretically conceivable coalitions are highly unlikely. The 'veil of ignorance' that many academic studies rely upon thus does not seem to be a very scientific approach.⁹

⁹ Another common ambition is to develop models that give the same indirect influence to the entire electorate in the EU, regardless of the outcome of national election. This is not very relevant in the present EU where it is member states that are represented in the Council.

Table 1	EU15 and models for EU27, absolute figures					
	Popul.	Extrapol	Sweden	Portugal	Italy	Nice
QMV		96	206	213	234	255
Blocking M		38	83	86	96	91
Germany	82.165	10	27	25	33	29
UK	59.623	10	24	25	33	29
France	58.747	10	24	25	33	29
Italy	57.680	10	24	25	33	29
Spain	39.442	8	21	21	26	27
Poland	38.654	8	21	21	26	27
Romania	22.456	6	15	12	14	14
Netherlands	15.864	5	12	10	10	13
Greece	10.546	5	9	10	10	12
Czech R.	10.278	5	9	10	10	12
Belgium	10.239	5	9	10	10	12
Hungary	10.043	5	9	10	10	12
Portugal	9.998	5	9	10	10	12
Sweden	8.861	4	9	8	8	10
Bulgaria	8.191	4	9	8	8	10
Austria	8.092	4	9	8	8	10
Slovakia	5.399	3	6	6	6	7
Denmark	5.330	3	6	6	6	7
Finland	5.171	3	6	6	6	7
Ireland	3.775	3	6	6	6	7
Lithuania	3.699	3	6	6	6	7
Latvia	2.424	3	3	6	3	4
Slovenia	1.988	3	3	6	3	4
Estonia	1.439	3	3	6	3	4
Cyprus	0.755	2	3	4	3	4
Luxembourg	0.436	2	3	4	3	4
Malta	0.380	2	3	4	3	3
	481.7	134	288	298	330	345

Thus, at the present stage of the EU's evolution, many of the theories commonly used in analyses of Council voting are not very realistic or relevant to EU politics, even as a priori models. The basic concept of power has to be developed further, and the calculations of coalitions have to be made more realistic, with some kind of weighting of interests, before they can contribute to a better understanding of voting rules in the EU.

The purpose of this article is not to offer another mathematical model-based analysis. Instead, its focus is on the various proposals for altering Council voting rules that were actually discussed in the IGC, with a view to calculating the likely effects of the alternatives that were presented and using what Felsenthal and Machover (2000, 2001) consider 'naïve common sense'. It should be noted that the expression 'blocking power' is used here in a different sense than in other studies. Here it means a country's contribution to a blocking minority.

A simple measure of a country's over- or under-representation is the ratio between its share of votes and its share of the population. If the ratio is over 1 the country is over-represented, and vice versa. Cruder measures are inhabitants per vote, or votes per capita. Table 3 below shows that the under-representation of larger countries is not very great. Most of them have about three quarters of the share of the votes they would have had in a proportional system. The share is lower for Germany, which did not receive more votes after its reunification. The overrepresentation of smaller countries is much greater. But, precisely because they are small, this does not affect the under-representation of the larger countries very much (see Moberg 1998).

The negotiations¹⁰

The voting rules issue was discussed in several meetings in IGC 2000, both in the Preparatory Committee, composed of member states' permanent representatives to the EU and a few State Secretaries, and by Foreign Ministers. Voting rules also were discussed, in very straightforward terms, at one meeting of Heads of Government, before the final negotiation at Nice.

¹⁰ This article does not claim to give a full picture of what happened at the Conference, including bilateral contacts. That will be the task of future historians. The best account thus far is David Galloway's (2001).

Table 2	EU 15 and models for EU27; change to extrapol.										
	% Pop		% Votes EU15			%Votes EU27					
	EU15	EU27	Pres.	Nice	Diff	Extr	Swe	Port	Ital	Nice	Diff
Thresh.			71.3	71.3		71.6	71.4	71.3	70.9	73.9	
Min.pop			58.3	69.5		50.2	57.2	55.1	62.4	58.4	
DE	21.9	17.1	11.5	12.2	6.4	7.46	9.4	8.39	10	8.41	12.6
UK	15.9	12.4	11.5	12.2	6.4	7.46	8.3	8.39	10	8.41	12.6
FR	15.6	12.2	11.5	12.2	6.4	7.46	8.3	8.39	10	8.41	12.6
IT	15.3	12	11.5	12.2	6.4	7.46	8.3	8.39	10	8.41	12.6
ES	10.5	8.19	9.2	11.4	23.8	5.97	7.3	7.05	7.88	7.83	31.1
PL		8.02				5.97	7.29	7.05	7.88	7.83	
RO		4.66				4.48	5.21	4.03	4.24	4.06	
NL	4.2	3.29	5.75	5.49	-3.8	3.73	4.17	3.36	3.03	3.77	1.0
EL	2.8	2.19	5.75	5.06	-11.2	3.73	3.13	3.36	3.03	3.48	-6.8
CZ		2.13				3.73	3.13	3.36	3.03	3.48	
BE	2.7	2.13	5.75	5.06	-11.2	3.73	3.13	3.36	3.03	3.48	-6.8
HU		2.09				3.73	3.13	3.36	3.03	3.48	
PT	2.7	2.08	5.75	5.06	-11.2	3.73	3.13	3.36	3.03	3.48	-6.8
SE	2.4	1.84	4.6	4.22	-8.3	2.99	3.13	2.68	2.42	2.90	-2.9
BG		1.7				2.99	3.13	2.68	2.42	2.90	
AU	2.2	1.68	4.6	4.22	-8.3	2.99	3.13	2.68	2.42	2.90	-2.9
SK		1.12				2.24	2.08	2.01	1.82	2.03	
DK	1.4	1.11	3.5	2.95	-13.1	2.24	2.08	2.01	1.82	2.03	-9.4
FI	1.4	1.07	3.5	2.95	-13.1	2.24	2.08	2.01	1.82	2.03	-9.4
IRL	1.0	0.78	3.5	2.95	-13.1	2.24	2.08	2.01	1.82	2.03	-9.4
LT		0.77				2.24	2.08	2.01	1.82	2.03	
LV		0.5				2.24	1.04	2.01	0.91	1.16	
SI		0.41				2.24	1.04	2.01	0.91	1.16	
EE		0.3				2.24	1.04	2.01	0.91	1.16	
CYP		0.16				1.49	1.04	1.34	0.91	1.16	
LUX	0.1	0.09	2.3	1.69	-26.6	1.49	1.04	1.34	0.91	1.16	-22
MT		0.08				1.49	1.04	1.34	0.91	0.87	

For most of the IGC, member states beat around the bush on the issue. All parties were aware that the issue of voting weights was the most sensitive of all at the conference, and that it would be decided the very last night. Member states were thus unwilling to show their hands fully. The Commission made a proposal in the beginning of the conference, and Sweden, the Portuguese Presidency and Italy presented different models about mid-way through the negotiations. Otherwise few concrete proposals were made openly, but various models were circulated unofficially between at least some countries. Thus, it is hardly surprising that there was very little common analysis. The background material at the meetings consisted of rather superficial tables and questionnaires. Delegations were not always fully aware of the effects of various proposals.

The French Presidency did not present any concrete proposals until the final meeting at Nice. There, Heads of Government negotiated over revised proposals and counterproposals for three days in plenary sessions and in bilateral ‘confessionals’ with the Presidency. In the final hours a few countries opposed the emerging deal. The package was wrapped up after a few other issues had been thrown in, such as seats in the Parliament, the rules for electing the President of the Commission, the venue of the European Council and finally, increased weight for some candidate countries and changes in the threshold.

Motives and constraints

Voting/blocking power

The objective of the larger countries was obviously to increase their weight in the decision-making, individually and collectively, or rather to make sure that it would not decrease drastically with enlargement. It is obvious that all countries must lose in relative weight as new members join. For example, each of the large countries had almost one quarter of the votes in the original European Economic Community (EEC6). They now have about 11.5 per cent and would have 7.5 per cent if the present system were extrapolated in EU27. This may be particularly traumatic for countries that have recently been world powers, such as the UK and France, and have the ambition to continue playing a leading role.

Spain also insisted on greater weight. It is not clear what made the so-called 'special situation of Spain' special. Spain had a strong wish to be accepted as one of the 'large' countries, with the same weight, despite a substantial difference in population. It has been maintained (and disputed) that at its accession Spain was given the choice between the same voting weight as the large countries or a second Commissioner. Thus, Spain insisted in IGC 2000 that it should be given the same number of votes as other large states when it gave up its second Commissioner. It was also claimed that Spain represents important geographical interests such as the olive-oil producers, together with Italy and Greece. As can be seen in table 3, Spain is the country that is closest to a 'proportional' share of votes. The Spanish demands were one of the key elements affecting the outcome.

For the smaller countries the objective was to preserve their weight. Even if the weight of an individual small country is limited, it is not only symbolic. It determines the extent to which the country can be an effective and valued partner in qualified majorities or blocking minorities, and thereby receive support for its national interests.

A decision by qualified majority requires wide support among member states. Hardly any reasonably homogenous interest group can form a qualified majority by themselves. But they can block a decision, and thereby bring about new proposals that accommodate their interests better. These possibilities diminish with each enlargement (see table 4).

The 1995 enlargement offers a good example. Some countries complained then that decision-making would become more 'cumbersome' (that is, not go their own way so easily) after northern enlargement, because they would need two large countries (or Spain) and two smaller ones to block, against two plus one previously. Spain and UK, in particular, insisted that the number of votes for a blocking minority should be kept at the same absolute level, despite the fact the four new countries were intending to join.¹¹ The result after negotiations was the 'Ioannina compromise', which can best be described as a kind of 'soft' suspensive veto for countries that could

¹¹ Of course, only three states actually joined after Norway's accession was rejected by Norwegian voters in a 1994 referendum.

form the old blocking minority. Similarly, one important element in IGC 2000 was that some of the large countries wished to preserve the possibility for three of them to block a decision also in EU27.

'Compensation'

One argument that received great play in IGC 96 was the notion that larger countries had, somehow, 'lost' through previous enlargements, and should be compensated for it. The argument was, in fact, spurious. Past enlargements have not affected the balance between large and small countries. The proportions between individual countries have not changed. With each enlargement, the share of smaller and over-represented countries has increased and in this way the larger countries have become slightly more underrepresented. But, as can be seen from table 3, the ratio for smaller countries (even as a group) has also fallen, by the same percentage. The 'burden' has been borne to the same extent by all countries. Conversely, when larger and under-represented countries join (UK, Spain, German reunification, Poland in the future) all other countries gain. The argument of balance only appeared rarely in IGC 2000, but it was sometimes hinted that the smaller countries had an 'amount of fat'.¹²

However, in the Amsterdam deal smaller countries had agreed to give larger countries 'compensation' for the loss of their second Commissioner. This was surprising, since members of the Commission are not national representatives and the Treaty forbids them to receive instructions from 'their' (or any) government. In any event, this was the deal, and the smaller states were prepared to honour it somehow.

Legitimacy

Legitimacy had a prominent role in the rhetoric at the Conference, but it did not always mean the same thing to all participants. Even if the larger countries did not question the principle of degressivity, they argued for greater 'democratic legitimacy', meaning a greater weight for their population. At the other end of the scale many of the smaller countries stressed the need for 'double legitimacy', meaning that the EU is a Union of both member states and people, and that the voting system should reflect this.

¹² The perspective at the Conference was mainly EU27. If it had been an EU28, with Turkey, it would have weakened the arguments for reweighting slightly.

Table 3	Share of votes/share of population; Nice and extrapol.									
	EC6	EC9	EC10	EC12	EU12 1991	EU15	EU15 Nice	EU27 extr.	EU27 Nice	EU28 extr.
Germany	0.73	0.71	0.70	0.69	0.57	0.53	0.56	0.44	0.49	0.46
Turkey										0.59
UK		0.79	0.76	0.75	0.79	0.73	0.77	0.6	0.68	0.64
France	0.89	0.85	0.80	0.76	0.80	0.73	0.78	0.61	0.69	0.64
Italy	0.80	0.81	0.76	0.75	0.79	0.75	0.8	0.62	0.70	0.66
Spain				0.88	0.93	0.88	1.09	0.73	0.96	0.77
Poland								0.74	0.98	0.78
Romania								0.96	0.87	1.01
Netherl.	1.79	1.65	1.52	1.46	1.52	1.38	1.31	1.13	1.14	1.19
Greece			2.24	2.13	2.25	2.05	1.8	1.7	1.59	1.8
Czech R.								1.75	1.63	1.84
Belgium	2.19	2.27	2.18	2.15	2.27	2.11	1.86	1.76	1.64	1.85
Hungary								1.79	1.67	1.89
Portugal				2.11	2.19	2.16	1.9	1.8	1.68	1.89
Sweden						1.95	1.79	1.62	1.58	1.71
Bulgaria								1.76	1.70	1.85
Austria						2.13	1.96	1.78	1.73	1.87
Slovakia								2	1.81	2.11
Denmark		2.64	2.51	2.48	2.64	2.44	2.09	2.02	1.83	2.13
Finland						2.51	2.15	2.09	1.89	2.2
Ireland		4.33	3.79	3.59	3.87	3.46	2.96	2.86	2.59	3.01
Lithuan.								2.92	2.64	3.07
Latvia								4.45	2.30	4.69
Slovenia								5.42	2.81	5.72
Cyprus								7.49	3.88	7.9
Estonia								9.52	7.40	10
Luxemb.	30.6	25.4	23.6	23.1	23.9	20.1	14.8	16.5	12.8	17.4
Malta								18.9	11.0	19.9
Min pop	67.7	70.5	70.2	63.4	60.2	58.2	69.5	>50.2	58.4	51.5

There was a great deal of discussion at the Conference about which share of the population a qualified majority should represent. The reason for this is the effects of degressivity'. In a proportional system, the percentage of the votes and the percentage of the population would be the same. In a degressive system, however, it is possible to reach a qualified majority of the votes with countries representing a lower share of the total population. In an EU of 15 a qualified majority (71.3 per cent) of the votes can be reached with countries representing 58.2 per cent of the population. When the Union is enlarged, and the share of smaller and over-represented countries increases, the minimum share of the population falls (see table 3, last row). The qualified majority becomes 'less qualified' in population terms. This can only be remedied through greater weight for larger countries. Again, the opposite happens when larger countries join.

Many countries were hesitant to commit themselves to a precise figure, because that would have prejudged the final decision about the weights. Some considered it enough that a majority of the population was behind a decision. However, most smaller countries seemed to accept a figure around the present level, or possibly 60 per cent. A few of the larger countries suggested figures of up to 68 per cent. The Commission sketched a reweighting which would have made sure that a qualified majority of the votes would always represent two-thirds of the population, but did not pursue the idea further.

The difference between the percentage of the votes and the percentage of the population can be seen as a measure of the total space for degressivity. Even a modest increase in the percentage of the population can lead to a dramatic reduction of the space, particularly if more countries are to share it. Simulations show that the margins could become so small that larger countries could accidentally become over-represented and vice versa.

There was also some discussion about the minimum share of the population that a blocking minority should represent. In the present system countries with about 12 per cent of the population can block a proposal, and in the special cases where the Council is not deciding on the basis of a Commission proposal, just over 8 per cent. With

extrapolation to EU27 the figures would fall to about 10 and 5 per cent, respectively.

Balance between small and large MS

The small v. large state balance was often stressed in the discussions by smaller countries, and the various options were often evaluated in terms of this balance. It obviously had a strong symbolic importance. After enlargement, and in particular if the weighting was changed, it would become possible to reach a qualified majority of the votes against a majority of member states. There was no discussion about this in IGC 96. Maybe some delegations were not even aware of it. In IGC 2000, most of the smaller countries insisted that a majority of member states should be in favour of any decision.

In the daily work of the EU, however, the dividing line is never between large and small, but rather between countries with opposite interests in other respects. Therefore, the state criterion in various models would not have any practical significance in decision-making.

Domestic presentation

The most important factor for member states was probably how the outcome could be presented to public opinion at home. To the larger countries, it was important to be able to present the result as a great increase in power. A reweighting with more votes would be more obvious than the indirect effects of a double majority. To smaller states, it was important to present it as if their weight had only changed slightly, or not at all.

One of the most sensitive issues at the Conference was the composition of the clusters. To many countries the most important thing was to keep the traditional proportions to other countries, in particular neighbouring countries, even if the difference in population could justify a change.

The most spectacular case was Germany, which had a 40 per cent larger population than the other large countries after its reunification. The large countries argued for greater weight for population, but were hesitant to apply this to Germany. The argument used, mainly by

France, was that the Union had been built on the equality of the (large) founding states. For a long time it was an open question whether and how hard Germany would insist on a greater weight and whether the others would eventually accept a differentiation. Germany hardly argued in public, but demanded at least a symbolic increase in bilateral talks (see Moscovici 2001). Even a double majority was difficult for the other large countries. In fact, this was the reason why that option had not been accepted at Amsterdam. In the end it became clear that at least France was still against differentiation. (There is no indication that the case of Turkey, with a greater population than UK, France or Italy figured in these discussions.).

A similar case among the smaller countries was the Netherlands, with at least 50 per cent greater population than each of the other countries in 'its' cluster (see table 1, column 3). Belgium would not accept a greater weight for Netherlands, unless there was a differentiation also between Germany and France. Sweden, in the next cluster, demanded a correction because degressivity, compared to Belgium and others, was in fact reversed. There were also other tensions involving smaller countries in the same cluster, or neighbouring countries in different clusters, that were not discussed in public.

In some quarters there obviously also existed ideas that voting weights should also reflect the member state's economic or 'political' weight or standing (see Moscovici 2001: 31), so that, say, Romania should have less weight than the Netherlands. This argument was not used openly at the conference. However, the first French proposal at Nice did give some of the candidate states fewer votes than present members of similar size. The case of Poland was explained as a typing error, and few other corrections were made later, but some anomalies remained.

Linkage to other issues

The most important thing to member states was that the package was acceptable as a whole, with a reasonable balance between the elements: voting weights, the composition of the Commission, number of seats in the European Parliament, etc. One problem was that the agenda did not contain many elements that could be in the interest of smaller countries and could facilitate a balanced package.

The link to the size and composition of the Commission was particularly important. In spite of the Amsterdam deal, there were proposals from the large states and the Commission to either put a ceiling on the number of Commissioners, in combination with rotation between member states, or to introduce an 'internal structure' like an inner cabinet. The argument they used was concern for the Commission's efficiency, but some of the larger countries were probably also seeking to preserve some kind of privileged position within the Commission. Using this argument also increased pressure on the smaller countries in the reweighting. Some smaller countries saw maintaining the principle of a Commission member from each country as the top priority.¹³

Institutional reform, and in particular the reweighting of votes, was the top priority for the French Presidency. If the Nice marathon had ended in disagreement it would have been a severe blow to its prestige. France was probably ready to make substantial concessions to avoid failure. It was also important for other countries that a deal was reached at Nice. If not, bargaining could have continued for years. Sweden, for one, also had to consider the prospects for its own Presidency a few weeks after Nice. The effects on enlargement was a major consideration. At the Helsinki Summit in 1999 member states had agreed to carry out necessary internal reforms in the Union by the end of 2002, so that new members could join. If Nice had failed, enlargement would in all likelihood have been delayed.

The options and their effects

Reweighting

Extrapolation of the present system was only mentioned as background to the discussions. The calculation that was normally used can be seen in table 1. With this calculation the minimum share of the population for QMV in EU27 would be 50.2 per cent. With another, and probably better, calculation it would be 53.7 per cent.

¹³ The number and distribution of seats in Parliament, which did not get the same attention, is discussed briefly at the end of the article.

A common feature in most of the models that circulated was that the nominal weight of each country was multiplied by at least two. The argument for this was that it would make it easier to slot new members into the system, but more important was that a nominal increase would make it easier for countries that would lose some of their voting weight to accept a new system. Three models that were presented officially, each responding to different concerns.

The Portuguese “hypothesis”

As holder of the Council Presidency prior to France, Portugal presented a reweighting which simply doubled the number of votes of all countries and gave the five largest countries five additional votes. (Presidency report) Some countries made the point that this was only compensation for the loss of one Commissioner, as opposed to reweighting, probably in order to make it easier to present domestically. This was one of the models that lived on in the Conference.

The Swedish model

Sweden argued for a reweighting based on a consistent formula or objective criteria, in order to eliminate the need for new negotiations at each enlargement. As an example Sweden presented models where the votes were distributed between states in proportion to the square root of their population. The square root was chosen in order to find a simple formula for degressivity. The resemblance to the so-called ‘Penrose theory’¹⁴ was a coincidence. The absolute figures could be increased for optical reasons, and rounding errors could be reduced, without basically changing the balance.

The Italian model

Italy presented a variant of a model that the Dutch Presidency had proposed before Amsterdam, whereby the present weights were multiplied by an arbitrary factor for the smaller countries, and higher factors for larger countries. The Italian model gave a stronger reweighting in favour of the large countries, which in some cases resulted in a higher ratio than these countries had in the original EEC6.

¹⁴ See Baldwin *et al* (2001) for a popular presentation

In this model three of the large countries had a blocking minority in an EU27.

Double majority

Two main variants were discussed in IGC 2000. First, the Amsterdam model was based on the traditional idea of a double majority, originally pursued by Germany, and which was one of the main options considered at IGC96. It was based on the principle that a positive vote would require both a qualified majority of weighted votes (possibly using the present weighting), and a coalition of states representing a qualified majority of the EU's population. Alternatively, a Commission proposal was based on a 'double single majority', with decisions requiring the support of at least half the number of states, which should also represent at least half the population of the Union.

Degressive weighting can be seen as a compromise between the inter-governmental principle of 'one state-one vote' and the size of the population. A double majority system is not a compromise. The two majorities work independently of each other. In the population criterion, the larger countries can use the full weight of their population in order to block a decision, without the degressive elements of the present system. Therefore, there is inevitably a full differentiation in blocking power between Germany and the other large countries, who would gain less. The magnitude of the shift of power depends on the level of the population criterion. If the population criterion is high, a double majority could mean a greater shift than a reweighting scheme, and vice versa.

The population criterion in a double majority is of course unfavourable to smaller countries and they would have to rely on the other arm (votes or states). Nevertheless several of the smaller countries had a preference for a double majority, in particular the Amsterdam variant. The reason for this was probably that it would be easier to present the outcome as if the voting weights had not really changed, after all, but that a demographic element had been added, which made the system even more democratic.

The Commission proposal was unrealistic because the population criterion was so low that the UK, France and Italy would actually lose

slightly in weight, instead of getting greater weight as agreed in Amsterdam. Spain would lose substantially (see table 4). Both the

Table 4	Share of blocking minority %							
	Extrap.	Commission		Swe	Port	Italy	Nice treaty	
		Pop.	States				Votes	Pop.
Germany	26.3	34.1	7.1	32.8	29.3	34.4	31.9	44.9
UK	26.3	24.8	7.1	29.2	29.3	34.4	31.9	32.6
France	26.3	24.4	7.1	29.2	29.3	34.4	31.9	32.1
Italy	26.3	23.9	7.1	29.2	29.3	34.4	31.9	31.5
Spain	21.1	16.4	7.1	25.5	24.6	27.1	29.7	21.5
Poland	21.1	16.0	7.1	25.5	24.6	27.1	29.7	21.1
Romania	15.8	9.3	7.1	18.2	14.0	14.6	15.4	12.3
Netherlands	13.2	6.6	7.1	14.6	11.7	10.4	14.3	8.7
Greece	13.2	4.4	7.1	10.9	11.7	10.4	13.2	5.8
Czech R.	13.2	4.3	7.1	10.9	11.7	10.4	13.2	5.6
Belgium	13.2	4.3	7.1	10.9	11.7	10.4	13.2	5.6
Hungary	13.2	4.2	7.1	10.9	11.7	10.4	13.2	5.5
Portugal	13.2	4.2	7.1	10.9	11.7	10.4	13.2	5.5
Sweden	10.5	3.7	7.1	10.9	9.4	8.3	11.0	4.8
Bulgaria	10.5	3.4	7.1	10.9	9.4	8.3	11.0	4.5
Austria	10.5	3.4	7.1	10.9	9.4	8.3	11.0	4.4
Slovakia	7.9	2.2	7.1	7.3	7.0	6.3	7.7	2.9
Denmark	7.9	2.2	7.1	7.3	7.0	6.3	7.7	2.9
Finland	7.9	2.1	7.1	7.3	7.0	6.3	7.7	2.8
Ireland	7.9	1.6	7.1	7.3	7.0	6.3	7.7	2.1
Lithuania	7.9	1.5	7.1	7.3	7.0	6.3	7.7	2.0
Latvia	7.9	1.0	7.1	3.6	7.0	3.1	4.4	1.3
Slovenia	7.9	0.8	7.1	3.6	7.0	3.1	4.4	1.1
Estonia	7.9	0.6	7.1	3.6	7.0	3.1	4.4	0.8
Cyprus	5.3	0.3	7.1	3.6	4.7	3.1	4.4	0.4
Luxembourg	5.3	0.2	7.1	3.6	4.7	3.1	4.4	0.2
Malta	5.3	0.2	7.1	3.6	4.7	3.1	3.3	0.2

population and state criteria were unfavourable to medium sized countries. Nor did most small countries support it. The weighting of votes in the Amsterdam model would have given all countries except Luxembourg a greater blocking power than the state criterion. And the state criterion would never be used anyway. However the basic criteria for this model, a majority of the population and of member states, played an important role in the debate towards the end of the Conference, and a few countries continued to argue for it.

The outcome and the effects

The weighting of votes

The Presidency's initial proposal was close to the Italian model, but was gradually modified under the opposition of smaller countries. The final result was a rather modest increase in voting weights for the large countries. It was in fact only slightly greater than in some of the other models, and the combined increase for the four large countries was even slightly smaller than in, say, the Swedish model. (But the blocking power was greater because of the higher threshold.) However, the increase for Spain was striking. The relative changes can be seen in table 2. As a result of this the under-representation of the large countries decreases, but not very much (see table 3). If the new weighting is applied in EU15 the under-representation will still be slightly greater than before the last enlargement. Spain will be slightly over-represented until the Union expands to EU27.

There were no objective criteria for the changes. The degressivity is not consistent. The proportion between an increase in population between the clusters, and the increase in weight, is erratic. It is only the 'normal' figure just under 1 in one case. In several cases it is just 0.16-0.19. In some cases it is reversed, so that some countries get more votes than the difference in population can justify, and countries in the lower cluster get, against the general principle, fewer votes than the next larger one even per capita. It is difficult to avoid such effects entirely, but most of these were proposed from the outset. At present Sweden is the only case, but the anomaly was reduced somewhat at Nice. In the new weighting the situation will be similar for Romania (despite a last minute increase) as well as Latvia and Malta.

The threshold

During the entire Conference almost all countries had been in favour of a threshold of approximately the present level (71.26 per cent) or slightly lower. The argument was that a lower threshold would make it easier to reach decisions. In the first French proposal at Nice the threshold was still only 71.69 per cent but the figure rose steadily in the course of the negotiations. The result that was announced at Nice contained some contradictions. A minor point about the threshold in EU15 was ironed out in the subsequent tidying up by national ambassadors to the EU in the Committee of Permanent Representatives (COREPER). However, it was agreed to keep one contradiction concerning the threshold in EU27, but the order of the texts shows how they should be interpreted.

In EU15, the threshold will be 169 votes of a total of 237 (71.31 per cent) or roughly the present figure. In practical terms this means that the blocking possibilities before the last enlargement are almost restored. Two large countries and one medium-sized country can block, with some limitations for Spain. In the process of enlargement, from EU16 to EU26, the maximum threshold will be 73.4 per cent. The exact figure will have to be established and this may lead to real negotiations. As for EU27, Declaration No 20 on the enlargement puts the threshold at 258 votes of 345 (74.78 per cent). Declaration No 21, which was agreed in the final minutes, states that the blocking minority shall be raised to 91 votes, and that the threshold shall be adjusted accordingly. This means that the threshold will be 255 votes of 345 (73.91 per cent). This also affects Spain's blocking possibilities slightly.

The population criterion

The most significant change in the voting rules is the population criterion of 62 per cent. It serves two purposes. Germany gets a substantially greater blocking power than the other large countries. The UK and France also get a marginally greater blocking power than through their votes, but the criterion will only be of practical use for coalitions that include Germany.

The other effect is that it gives three of the large countries the possibility to form a blocking minority also in an EU27, provided that Germany is one of them. 59 per cent of the population would have been sufficient for this. This was one of the key **issues** at the conference, and it could have been achieved in three ways. The first possibility was through a reweighting of about the size of the Italian proposal, with a threshold at the present level. However, this option was not accepted. The second method was through a moderate reweighting with a higher threshold. The third was a population criterion provided Germany was one of the countries.

The French Presidency included a population criterion in its first proposal, while none of its proposals made a blocking minority of three possible through the voting weights. Some of the smaller countries argued against a blocking minority for three countries, but the opposition was not strong. It was probably difficult for the countries that had argued for a double majority to oppose it at the end of the day, even if they did not achieve the purpose of avoiding a reweighting.

Table 5	Share of blocking minority for groups %, EU27			
	Extrapol.	Nice*	Nice	
	votes	votes	votes	populat.
Three largest	78.9	88.9	95.6	110
Mediterranean	84.2	88.9	95.6	64.9
Old cohesion	55.3	59.3	63.7	34.8
New members	92.1	91	97.8	52.5
* old threshold				

The interaction between issues

The majority of countries cannot use the population criterion, so the traditional votes is their only tool. The higher thresholds enhance the effect of the voting weights, through increased blocking power for basically all countries. In fact they tend to restore the importance of the voting weights. The purpose of increasing the threshold was to compensate the larger countries for the rather moderate reweighting. This was particularly important for Spain. The population criterion is of

no use to it. Galloway (2001: 84-6) describes how the vote weights and thresholds were modified in order to give Spain almost the same blocking power as the large countries. But the thresholds also soften the effects of reweighting for smaller countries. Most medium-sized countries retain the absolute share of a blocking minority they would have had in an extrapolation of the present system, as table 4 shows. The effects are the same for coalitions. Table 5 illustrates this effect for some of the categories Wessels (2001: 208) has studied. A hypothetical situation with the Nice weighting, but with the present threshold, is included for comparison.

Effective decision-making

Some authors have expressed fears that the new voting rules will be more difficult to understand (see Wessels 2001) or will seriously reduce the effectiveness of decision-making (see Baldwin *et al* 2001; Felsenthal and Machover 2001). These fears are exaggerated. First, the weighting will function as it has done so far, with the only exception that there is also a population criterion that is only of use to coalitions which include Germany. The 'majority of states' rule will probably never come into play. The three majorities overlap to a great extent. A group with a qualified majority of votes normally also represent a majority of states and 62 per cent of the population.

Serious deadlocks can certainly occur in areas that require unanimity. There have been many examples of this, such as earlier problems of legislation in the Internal Market. The number of cases requiring unanimity was reduced further at Nice, but most decisions concerning the financial balance between countries still require unanimity (own resources, the financial perspective, and also the structural funds for the next financial perspective). The only field which is crucial for the financial balance, where decisions are made with qualified majority, is the agricultural policy.

However, the decisions at Nice on voting rules concerned decisions by qualified majority. These constitute the vast majority of all decisions (according to some estimates 80 per cent or more). There is hardly any risk for serious deadlocks on these issues. It would be difficult to find such cases in the past. The studies that express fears of reduced effectiveness are based on theories where countries either say 'yes' or

'no' to a proposal (see Felsenthal and Machover 2000). This is not the relevant question in EU politics. The procedure is initiated by a Commission proposal, which is discussed in one of the working groups of officials for months, and sometimes years, before they are brought to decisions in Coreper and finally at Ministerial level. Real negotiations take place at all these levels. Sometimes the discussion ends up with practically the original proposal. Sometimes it is changed beyond recognition.

There is a strong consensus culture in the EU, even in matters where the Treaties stipulate qualified majority. There is a general will to move integration forward. Countries have to consider not only their interests, but also relations with other countries and their own image. A formal vote is rarely taken. This does not mean that the weighted votes are unimportant. Sometimes decisions are made against the will of a few countries. Countries are acutely aware that they can be outvoted, and this is a powerful stimulant to accept compromises. On the other hand, countries sitting on a blocking minority can insist on a modified proposal, which takes better care of their interests. Sooner or later after negotiations, consensus or at least a qualified majority will be found.

Permanent solution?

The Nice deal is not a permanent solution in the strict sense. Legally speaking, the voting weights for candidate countries were merely declarations stating the agreed position of present Member countries in the coming negotiations with candidate countries. It is the accession Treaties that will be legally binding. Technically, it would be quite possible to decide otherwise in the accession negotiations, but that would open up a Pandora's box. The open issue is that the Nice Treaty only sets a maximum threshold for qualified majority at the intermediate stages of enlargement. There will have to be negotiations about precise figures for the accession Treaties.

In the medium term it could be argued that a new situation presents itself as soon as negotiations are opened with new candidate countries. It is not obvious what the figures should be for all potential candidates. In the long term it would be increasingly difficult for larger countries to demand further changes in the voting rules. The share of smaller countries, and hence the opposition to changes, will grow with

enlargement. On the other hand the population of practically all member and candidate countries will, according to UN forecasts, decline in absolute figures over the next decades. (UN1998) The decline will be greatest in southern and eastern Europe, in some cases up to one third of the population until 2050. The population of some countries would eventually sink below that of countries in lower clusters, and thus make the weighting system obsolete by around 2030.

Conclusions

The driving force behind the negotiations in IGC 2000 was the large countries' wish to make sure that their relative share of the votes would not decline so rapidly after enlargement. It was also necessary to make some kind of change in the voting rules, if member states representing substantially more than half the population were to stand behind a decision. Smaller member states saw this as a political reality and were prepared to honour the Amsterdam deal, but many of the smaller countries preferred to do it in a way that would not be so conspicuous.

The outcome was probably not what most states had planned for. The obvious reason why the large countries aimed at the substantial reweighting of the Italian model was that they wanted to get more than the other models would give them. They had only limited success. The reweighting was only marginally greater, but this was partly compensated by a higher threshold that increased their blocking power. Another reason for raising the threshold clearly was to find a solution for Spain, given its ambition to achieve equal footing with the large countries. And in fact the higher threshold partially restored the role of the weighting, in relation to the population criterion, for all countries.

The same results could have been obtained with for example the Swedish model and a threshold of about the same level. But this would not have given Spain a dramatic increase in weight.

The final solution was somewhat more complex than the present rules because of conflicting objectives. For example, most of the large countries argued for a simple reweighting as the simplest solution (which also gave them greatest weight). But they also wanted to keep the blocking minority of three large countries in EU27. It would have been easier to reach a blocking minority if Germany had been given

more votes than the others, the more the easier. But at least some of the larger countries did not accept that. The only remaining solution then was a population criterion. In practice this meant that the large states could not accept that Germany would receive about 10 per cent greater weight, as most of the differentiated weightings suggested, but they did accept that Germany would receive 40 per cent more in blocking power through the population criterion. The Commission proposal of double simple majority would have given some of the large countries a smaller blocking power than an extrapolation of the present rules. The reason why many of the smaller countries preferred a double majority was that it would be easier to present to the public at home than a reweighting. But in the end they got both.

The new system will work rather much like the present one, with the exception that there is also a population criterion that is only of use to coalitions including Germany. The fears that the new voting rules will paralyse the decision-making in the union are highly exaggerated and reflect a static view of the decision-making process. The new rules concern decisions by qualified majority. In these matters a majority will be found, after negotiations. Even if the Nice rules create new blocking minorities, and increase the threshold for qualified majority, this affects the relative bargaining position of member states, rather than the Union's decision-making capability.

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3. IS THE DOUBLE MAJORITY REALLY DOUBLE? THE VOTING RULES IN THE EU CONSTITUTIONAL AND REFORM TREATIES¹⁵

The Background: Enlargement, Balance Of Power and 'Legitimacy'

Since the establishment of the European Economic Community (EEC) in 1958, decisions by qualified majority (QMV) in the Council have been based on a system with weighted votes with over-representation of medium-sized and small states ('degressive proportionality'). The voting rules have been under constant negotiation together with other institutional issues, over the past 15 years, in the light of successive enlargements, at Inter-Governmental Conferences (IGC) on treaty changes ending at Amsterdam (1997) and Nice (2000). The voting rules were the most controversial issue in these negotiations. On the eve of enlargement to Central and East European countries, an agreement was reached at Nice on the institutional changes that were necessary for enlargement. The voting rules consist of qualified majorities of the weighted votes and the population and a majority of member states. So far the principle of degressivity was not questioned.

The discussion of voting rules in the EU must be seen in terms of the balance of power between member states. Some of the large¹⁶ member states have been seriously concerned that their share of the votes has decreased through the admission of new members (as would happen in any club), and wish to restore the situation. In absolute terms the share of, say, France, has fallen from almost 25% in the original EC-6 to about 8.4% in EU27. The under-representation of the large states has also increased modestly with the increased number of small and over-represented member states. Spain has also been concerned about the balance after the 1995 'northern' enlargement. The

¹⁵ This is updated version of a working paper previously published on the website of Real Instituto Elcano, Madrid, N°290, 31.5.2007. The views expressed in this paper are the author's alone, and not those of his government. The author would like thank a great many colleagues and researchers for useful advice and interesting discussions, in particular Madeleine Hosli, Moshé Machover, Iain Paterson, Max Albert, Helen Wallace, Wojciech Słomczyński, Karel Žyczkowski, Annick Laruelle and Jan-Erik Lane.

¹⁶ In the paper this refers to the four largest: Germany to Italy. Spain and Poland are a group to themselves. The medium-sized are Netherlands to Bulgaria. Small refers to the rest. Cf table 1.

code words for these demands have often been 'democratic legitimacy' or 'efficient institutions'. However, the share of each of the smaller countries has also fallen by the same percentage, the over-representation of all smaller countries has also decreased, and the proportions between a given large country and a given small one did not change until Nice (Moberg, 1998, 2002).

The voting rules, as well as other parts of the Nice Treaty, have been increasingly criticised in the public debate, not least by the governments – France and Germany – that once designed them. It has been argued that the rules are extremely complicated and difficult to apply, that Spain and Poland obtained too much weight compared with the big four, and that the high thresholds for a qualified majority would lead to sclerosis or paralysis in decision-making. The latter fear is largely inspired by academic voting power studies (Baldwin *et al.*, 2001; Felsenthal and Machover, 2001). There has even been the opposite fear: that the rules would lead to a directorate of large countries (*The Economist*, 2000).

There are several explanations to the criticism of the Nice rules. There was obviously some confusion at Nice and certain points had to be straightened out afterwards. Many in the public debate had not understood, or accepted, the limited mandate of the Nice IGC. More important, the large countries had been hoping to get more. Some medium-sized and small member states may have hoped to get away without any substantial re-weighting, despite commitments they had made at Amsterdam. Germany had insisted on a greater weight to reflect its larger population after its reunification. France had resisted, insisting on the historical 'parity'. Netherlands and Belgium had a similar dispute, and others also had problems with the increased weight of neighbouring countries. The alleged 'inefficiency' of the system also played a role. There was a certain amount of revanchism in the air. This was the background to the proposal about the double majority.

The Paper's Purpose and Methods

The purpose of this paper is to study the double majority under the Constitutional and Reform treaties, and their effects on the balance of power between member states. It does this largely by a comparison

with the voting rules under the Nice Treaty, which was the main alternative in the negotiations. Most studies agree that the double majority would entail a substantial change in the balance, in favour of the large states, and some scholars have expressed concern over this. Before the final deal on the Constitutional treaty there was even an Open Letter of almost 50 scientists against it. But available studies have hardly explained why there is a change in the balance, which this paper attempts to do. It does not aim to build upon any particular theory, but rather to confront dominating voting power studies with the political context and with what the negotiations were about.

The paper only deals with voting rules and not with other more or less related institutional issues, like the balance between the institutions, a permanent President of the European Council, a 'Foreign Minister' of the Union or the scope for a qualified majority, etc.

It begins with a short comment on the ideological issue: what voting rules should be about. It is followed by a short discussion of decision-making in the EU. It then continues with a short comment on voting power methods, partly in reply to Hosli's and Machover's (2004) criticism of a previous paper. The following sections, which are the core of the paper, give an overview of the negotiations that led to the Constitutional Treaty, summaries of the two main options, a discussion of the effects of these and why the double majority changes the balance. Finally, there is a short comment on a few alternative models that have figured in the discussions.

The paper is based on relatively simple calculations of the effects of the proposals that were made, on the arguments that were used in the negotiations, the objectives of the actors and how these could be achieved. There are few written records of the discussions between member states. Therefore the paper partly builds on the author's observations as a civil servant during some of the negotiations.

It does not make use of voting power calculations for reason explained below. In this paper the calculations of 'power' will be based on the member states' share of the weighted votes and on their share of the necessary blocking minority, or qualified majority, with different voting rules in a given composition of the union. To avoid confusion with voting power terminology the latter shares are referred to as a

state's voting/blocking 'potential'. The ratio between a country's share of the votes and its share of the population is used as a simple measure of its over-/under-representation. Unlike other measures used at the IGCs, it offers a point of equilibrium.

Excursus: What Is 'Democratic Legitimacy'?

This paper does not intend to solve the question of what a voting system 'should' look like. This is a political choice. However, authors have widely diverging views of what 'democratic legitimacy' means in the EU context, and whether it is at all possible or desirable in the same sense as in member states. Some seem to be unaware of other possible views. As a background, it is necessary to point out these differences and list some of the arguments.

Is it states that are the members?

One extreme is the traditional and legally undisputable view that the EU is based on treaties between states, called member states. It is their governments that are represented in the Council. The present Treaty and the Reform Treaty have practically the same wording: 'The Council shall consist of a representative of each Member State at ministerial level, who may/authorised to commit the government of that Member State'... The Council is not meant to be like the US Congress, where the entire population is represented at the federal level, over the head of states. This could give good a priori arguments for using the traditional inter-governmental principle – one state/one vote – in the Council. But it would be utterly unrealistic. The weighted votes have existed since 1958, and the large member states have been insisting on a greater weight in the Council, where they can act.

Or is it citizens?

The other extreme is the view (held by e.g. Emmanoulidis and Fischer, 2003) that the principle of one man/one vote should also apply in the Union, and that therefore the voting weight of each government should fully reflect the number of inhabitants they represent. The double majority is often presented as if this were the purpose, and the idea of a 'double' majority with a state leg is often forgotten. It should be recalled that proportionality is not always observed in member states, where, for instance, rural regions are sometimes favoured, as for the French

Senate, or small states in federal systems as in the German Bundesrat or the US Senate.

Equal Voting Power

Voting power studies have been the mainstream of academic studies on the subject for the past 15 years. They are ultimately based on Penrose's (1946) theory that each voter should have the same possibility of (indirectly) deciding the position of his government. Penrose's rather cautious conclusion, in his own words, was that 'governments representing... small nations... are likely to be more representative than governments representing relatively large groups of people'. He thought (1952) that it would be 'more equitable' if weights were proportional to the number of people each government represents, which he found to be almost the square root of the number of voters. Some of his later followers, like Hosli and Machover, are less cautious and see this as the 'correct implementation of the one person, one vote principle'. The realism of Penrose's theory can be debated. It should be possible to find out empirically whether the government of Germany is much less representative than, say, that of the Netherlands.

States and Citizens

The Constitutional Treaty introduced a new clause: that the Union is based on both member states and citizens. There was little discussion about it in the convention. This was probably a way of preparing the ground for the Presidium's proposal on the double majority and a greater weight for the large countries. In any case it is doubtful that this principle is at all relevant for decision-making in the Council, where governments are represented.

Just a Compromise?

The author is not very convinced of any of these views. A degressive voting system, such as the pre-Nice system, can be seen as just a compromise between opposite interests, which takes account of both states and population at the same time. A system where the populations are balanced somehow could probably also help to increase the legitimacy of EU decisions. It should be noted that a double majority, or a triple one like Nice, are not compromises. Each criterion can be used independently with its full weight for blocking decisions.

Decision Making in the EU

The decision-making process in the Council has been discussed exhaustively, *inter alia*, by Hayes-Renshaw and Wallace (2006). The author only needs to highlight a few points. Decisions are normally made by consensus. Member states pursue national interests, but are also driven by a common wish to move forward, to stay in the mainstream and, above all, not to become isolated.

It has been described as ‘decisions in the shadow of a vote’. The votes are only potential weapons. The threat of a majority decision is a powerful instrument to bring about consensus. So far, a vast majority has been required for a decision. No reasonably homogenous group has a majority of its own. Blocking minorities are a powerful instrument to obtain concessions. They can be seen as the key to decision making. Maintaining blocking possibilities has been the underlying *leitmotif* in past negotiations on voting rules. Declaration 21 of the Nice Treaty provides a good illustration. It actually defines the qualified majority in EU27 through the blocking minority. The reason why blocking is so important is probably not that it is politically more rewarding to block undesirable decisions than to support desirable ones (as Hosli and Machover believe). It is rather that it is easier to get leverage through a blocking minority than through a majority.

Blocking minorities are a dynamic element in the process. They do not stop decision-making. If a decision is blocked, it only means there are continued negotiations until a solution – acceptable to at least a majority – is reached. Countries in the blocking minority are courted by others with compromise proposals. When it becomes clear that there is not a blocking minority, member states quickly rally around the compromise, and member states with objections have to fend for themselves. The Presidency determines whether there is support for the proposal, mostly without a vote. Member states normally only vote openly against, if they want to show domestic opinion that they fought to the end (cf. Mattila, 2004.) If no member state actively objects to the Presidency’s conclusion, a decision can actually be taken with the support of a smaller majority than QMV. This can also happen in matters requiring unanimity. The important thing is whether anyone actively objects.

If it is a matter for qualified majority, there will be an agreement sooner or later. Experience shows that the overwhelming majority of proposals have led to decisions. There is hardly any evidence that more than a few decisions on QMV issues have ever been blocked indefinitely by a minority. The weights and thresholds determine the bargaining strength of member states. They do not decide *whether* there will be a decision, but rather *which* decision it will be.

Is Large Versus Small Really the Issue?

According to conventional wisdom small and large states are not pitted against each other in real life. It only happens in negotiations about voting rules themselves and other institutional issues. In daily decision-making some smaller states often have common interests with some of the large states. If they take the weight of potential allies into account, they could be considered to be on the 'winning' side in some respects, even if a change of voting rules favours the large countries. This could be the case i.e. with net contributors, where the large countries weigh heavily, against net receivers.

The fears of a 'directorship' of large states are exaggerated. However, the agenda-setting power should not be overlooked. There has been a clear tendency among large states over the past few years to consult closely between them and try to make deals on strategic issues. This does not necessarily mean that they have common interests. It is rather because they have opposite interests that they may be able to make deals that will stand. Once they have come to an understanding it may be difficult for other states to re-open an issue. But such deals may make it easier for the Union as a whole to reach a decision in complicated negotiations, such as a medium-term budget.

Voting Power

Voting power studies calculate the power given to a country by voting rules, by computing in how many of the theoretically possible coalitions a state can decide the outcome, by casting its vote for or against a proposal. Most studies are based on the *a priori* assumption that any state can take any position on an issue, or remain indifferent, and that all coalitions are equally probable (which is known as Impartial Coalition Culture).

The authors are well aware that these assumptions are not fulfilled in real life. (Whether the Impartial Anonymous Culture, where the probability of an actor's behaviour is unknown, used by Felderer *et al.* and Feix *et al.* does a better job is beyond the scope of this paper.) Hosli and Machover justify the voting power approach with the need to distinguish between *a priori* power, which is directly derived from the voting rules, and on the other hand the actual power a country wields, which depends on its position in the political environment. However, they actually also claim that member states' priorities change so much over time and that so many issues are inter-related, that the *a priori* approach is the best approximation of long-term average of real power.

Voting power methods have been criticised, among others, by Garrett and Tsebelis, for disregarding the spatial distribution of a member state's policy positions, and the effects of the institutional setting, for not being additive for members of a coalition (unlike the measures used here), and for not including member states' preferences. Albert has criticised them for not containing any 'political' science, and for disregarding existing knowledge of how member states actually behave.

The author's most important objection is that the very concept of power as a member state's ability to tip the balance is dubious. This is not the issue in daily work, nor in negotiations about voting rules. As Laruelle *et al.* (2006) have pointed out, what member states are concerned with is the result of the decision making-process and to be on the winning side in a majority or a blocking minority along with other like-minded countries. The formal weight is what counts when member states try to piece together a blocking minority, or a majority. In negotiations about voting rules member states look at the effect they would have for themselves and predictable allies on predictable issues.

Moreover, simple mechanical counting of the number of coalitions, without weighting them by the importance of the issues, is a blunt instrument. The author doubts that it is possible to find a universal measure. In the end, voting potential must be seen in the light of the member states' own perception of their priorities and predictable allies. This paper only touches upon a few concrete possible coalitions (large states, net contributors or beneficiaries, old and new members, friends

and opponents of CAP reform, free trade, etc.) Emmanouilidis and Fischer (2003) illustrate other coalitions.

Furthermore, voting power studies do not analyse the effects of each of the components of the voting rules, or put them in the political context. This makes them overlook important aspects and the reasons why the rules were designed the way they were. This is the case with the effects of the population criterion under Nice, the role of the 'state leg' and the disappearance of the threshold for the weighted votes.

Finally, combinatorical effects should become less interesting as the number of theoretically possible coalitions increase from just 64 originally, to 135 million in EU27, and voting power should go in roughly the same direction as weights. Effects like the 'dummy' situation Luxembourg¹⁷ was in 1958-73 should disappear. Chang *et al.* (2005) have shown that the difference between the share of votes and the Banzhaf index fades out statistically if the number of states is large and the threshold (percentage of votes required for decision) is about 50%, but warn that they increase rapidly at high thresholds because of the 'unanimity effect'. Słomczyński and Życzkowski (2006) find that with 27 member states the difference disappears at 61.6%, and then increases again with higher thresholds. In fact, the difference is marginal also under the Nice rules. In EU27 the index (calculated by Felsenthal and Machover, 2001) diverges from the weight by just 0.07 to 0.62 percentage points for each country.

To summarise, voting power calculations may be logical and relevant to groups with a small number of actors, such as parties in a parliament, and clear-cut issues. But it is doubtful that they are really suited to the highly consensus-driven decision making in the EU, with a large number of members.

Bargaining, Not Bingo Game

Many studies (Baldwin *et al.*, 2001; Felsenthal and Machover, 2001; Lane and Maeland, 2002), also use voting power methods to calculate the probability that the Union will reach a decision. They claim that the

¹⁷According to voting power studies, Luxembourg could never tip the balance in a decision in this period.

'effectiveness' of decision-making decreases dramatically with higher thresholds, and with the number of member states at the same threshold as in successive probability calculations. Hosli and Machover claim that the 'chances' of a decision being made have already declined, since 1981, from 6:1 to 12:1, but also point to contrary findings. Laruelle *et al.* (2004) have tried, as a first step, to make calculations more realistic by excluding coalitions where there is not a majority of member states.

The author's greatest objection to calculations of 'effectiveness' is that decision making in the EU is considered a bingo game, where member states cast their votes at one occasion, independently of each other, and this results in a decision or no decision. The crucial mistake is that decision making in the EU it is not a bingo game, where probabilities decide the outcome, but a bargaining process, as illustrated above.

Even if decision-making has reached deeper down into sensitive matters and moved into new fields, working methods have changed and the involvement of parliament has increased, it is doubtful that there has been a significant, if any, slow-down in recent years. It may even be the other way around. To conclude, calculations of 'effectiveness' have little to do with reality and are rather misleading.

From Nice To Double Majority

The weights of the new member states, according to (a declaration attached to) the Nice Treaty were integrated into the Accession Treaty, finalised in Copenhagen in December 2002. They were originally meant to enter into force on 1 January 2005. Since it was later decided that enlargement with the 10 first new members would take place on 1 May 2004, these states were provisionally inserted into the old, pre-Nice, weighting system for a transitional period up to 1 November 2004, when the Nice rules began to apply. At Nice it was also agreed to hold a new IGC in 2004 to deal with simplification of the treaties, a clearer definition of the competencies of the Union, the role of national parliaments and the status of the charter on fundamental rights. The summit at Laeken in December 2001 called a 'convention' with the task to prepare the IGC, composed of representatives of national parliaments of all member and candidate countries, of the European Parliament, Heads of government and the Commission. The

convention's mandate was widened to cover i.a. how to make the Union more efficient and more democratic and to consider whether a 'constitution' for the EU should be adopted.

It is significant that the Convention adopted the name 'convention for the Future of Europe'. None of the issues were directly related to enlargement, even if media and politicians rarely made that distinction. It can be debated whether the Nice issues, that had just been settled, were at all covered by the convention's mandate. There was a very general wording about greater democratic legitimacy and transparency, but none of the 57 specific questions in the document concerned the Nice issues, and it was only halfway through the Convention that it became clear that they would be on the agenda.

Since these issues are extremely sensitive there has always been little open analysis of them at the IGCs, and consequently delegations have not always been fully aware of the effects of the options. At the Convention, which was otherwise a step forward in transparency, there was rather less analysis. The Presidium did not appoint a special working group for this issue, as for other many matters, and it was only discussed in a few plenary debates at the end.

Eventually the Convention's Presidium proposed to replace the Nice rules, and the traditional system of weighted votes, with a double majority consisting of a majority of the member states, representing 60% of the total population of the EU. The proposal was controversial already in the Convention. This was included in the draft Constitutional Treaty which was proposed by the Convention. Some members made it clear that they did not support the proposal on this point.

The Convention was followed by a new IGC that started in October 2003. The large member states basically supported the convention model. Spain and Poland initially argued for the Nice rules, or at least a negotiated compromise based on Nice. A number of the medium-sized and small countries had a preference for the Nice rules, while others accepted the double majority, but argued for 'parity', i.e., the same percentage for the two criteria. After an unsuccessful summit in December 2003, and a new government in Spain, the tide turned in

favour of a modification of the double majority. The final deal in June 2004 was a double majority from 2009, with increases in the percentages for qualified majority and some additional checks. The ratification procedure stranded after the negative outcome of the referendums in France and the Netherlands, and a 'silent no' in the UK and maybe some other countries.

Eventually the attempts to save at least parts of the Constitutional treaty converged on amendments of the present treaties, without the semi-federalist symbolism of the Constitutional Treaty. The main driving force in these attempts (apart from the huge loss of face) was undoubtedly the institutional issues, and in particular the voting rules. The German Presidency in the spring 2007 staked its prestige on solving all the political issues before a new IGC, so that the latter would only be a technical exercise. This was basically achieved at the European Council in June 2007. The main opposition to the proposal came from Poland, with the support of the Czech Republic, who proposed voting rules based on the square root. What they achieved was that the double majority was postponed until 2014, and that member states could also request the application of (i.e. block in accordance with) the Nice rules until March 2017. There was also a modification of the 'Ioannina' mechanism.

The Nice Rules Are Not All That Complicated

The Nice/Copenhagen rules consist of three elements:

- (1) Weighted votes with degressive proportionality, as in the old system. The weighting was changed moderately in favour of the large countries. The threshold for a qualified majority was increased from the traditional level of about 71% to 73.91% in EU27.*
- (2) A majority of member states. The old provision – that 2/3 of member states are needed when the Council is not acting on a Commission proposal – was maintained.*
- (3) A possibility for member states to demand that member states representing 62% of the population stand behind the decision.*

For all practical purposes the only important factors are the weighted votes and the 62% population criterion. The population criterion only has one effect. It gives Germany substantially greater blocking potential than its 29 votes, and thereby greater weight than the other large countries (without being so

visible). Germany alone has almost half a blocking minority. This blocking potential can only be used in coalitions with other large countries. In this way three of the large states can maintain a blocking majority in EU27 provided that Germany is among them. This was the declared objective of at least the UK. Even if this does not give the whole picture of the larger states' interest, and it is highly unlikely that these states would be alone in opposing a proposal, it is a good yardstick to the effects of different rules. It is interesting to note that the models that have been accepted, have all satisfied this condition. The population criterion is only relevant when Germany is against a proposal, and can be disregarded in all other situations in EU27. The reason why this criterion was introduced was in all likelihood to accommodate German demands for a greater weight. It was not to guarantee that decisions are back by a certain share of the total population. The weighted votes alone guaranteed at least 58.4%.

The majority of member states might be symbolically important, because it would otherwise be theoretically possible, from EU25, to reach a qualified majority against a majority of member states. But in practice it could only decide an issue, if the majority of member states are standing against a group that already commands a qualified majority of votes, and 62% of the population. Simple simulations show that this can only happen if almost all the large states are standing against almost all the small¹⁸, i.e. if the minority is made up of all states in the upper half except, on the margin, one medium-sized. Such highly polarised situations have hardly ever occurred.

A point in the Nice rules that has been heavily criticised is that there is hardly any difference in votes, 27 against 29, between Spain/Poland and Germany, with twice the population. The population criterion largely compensates Germany for this. If it is translated into votes with the same effect, comparing apples and pears, the proportions between Germany's and Spain's blocking potentials are more like 41 to 27, which is not unreasonable in a degressive system. On the other hand, the disproportion between the weight of the UK,

¹⁸ These and other calculations can easily be made with the author's calculation tool, which can be downloaded from the following link [VOTEdemo07a.xls](http://www.realinstitutoelcano.org/documentos/Moberg052407WP/VOTEdemo07a.xls) (<http://www.realinstitutoelcano.org/documentos/Moberg052407WP/VOTEdemo07a.xls>). The use manual can be downloaded at: [Moberg052407WPUserManual.DOC](http://www.realinstitutoelcano.org/documentos/Moberg052407WP/Moberg052407WPUserManual.DOC) (<http://www.realinstitutoelcano.org/documentos/Moberg052407WP/Moberg052407WPUserManual.DOC>).

France and Italy, with a population up to 50% greater, and that of Spain and Poland, is evident. The population criterion is only of marginal use to the former. And Spain's and Poland's weight is not unreasonable compared to that of the medium-sized and small countries.

The Double Majority Is Not Really Double

The convention model is often referred to as 'the double majority'. However, it is just one version of a double majority i.e. of population and member states, which was not discussed much in the Amsterdam and Nice IGCs. At that time, Germany and several other countries were pursuing a different version, with weighted votes and population, which was basically integrated into the Nice deal.

The double majority abolishes the weighted votes, (1) above, and the over-representation of smaller countries. Only the two other criteria remain: (2) a majority of member states in the convention proposal, and in the IGC deal 55%, but at least 15 states, which is automatically reached in EU27; and, finally, (3) a requirement that it represents 60% of the population in the convention proposal, and 65% in the IGC deal. Unlike Nice, the population criterion is now a compulsory element.

Again, the majority, or blocking minority, of member states will hardly ever play a role, at least with thresholds at this level. It can only do that if the group can outweigh member states with 65% of the population. Since six states account for 70% of the population, this is only possible in highly polarised situations that hardly ever occur. Simulations will show that it could normally only happen if the majority is standing against a group including three or all four of the large states. (The theoretical minimum is two). In practice, only criterion (3) remains. The weight of member states is directly proportional to the size of their population. Therefore it is a mistake to believe, as many authors do, that the majority of member states offers some protection for in particular the smallest countries.

In the 2004 IGC deal there were a few additions that marred the original beauty of the formula. In the cases where the Council is not acting on a Commission proposal, the threshold is raised to 72% of member states (which means that, theoretically, a minority of eight states representing 3% of the population could block a decision, against

5% under Nice.) There is also a 'double key' saying that at least four states are required for a blocking minority. This means that the large states in principle gave up the blocking minority of three of them, although any country, however small, would do as a nominal fourth partner.

On the other hand, a special check for 'almost blocking' minorities, reminiscent of the 'Ioannina compromise' was introduced. This compromise was made in 1994 on the eve of the EFTA-enlargement. The gist of it is that member states that constituted a blocking minority before the enlargement, but not after the accession of the new states, would still have a kind of 'suspensive veto'. The compromise was linked to the pre-Nice voting rules, and has thus ceased with the Nice rules. It was re-introduced, for an undefined period, in the Constitutional Treaty and made permanent in the Reform Treaty. If countries representing 3/4 of a blocking minority in the Constitutional Treaty, or 55% of a double majority in the Reform Treaty (i.e. 19,25% of the population or 8 member states), oppose a decision, the presidency shall try to find a satisfactory solution within 'a reasonable time'. (The period can be ended by a single majority decision).

The Ioannina formula hardly played a role in decision-making pre-Nice. It remains to be seen whether it will with the new treaty. If it does, it might serve the same purpose as a blocking minority, to make other countries come around with concessions. In that case, it would give small minorities greater possibilities to block – although temporarily – than the Nice rules. It would then e.g. be possible for two (nominally three) member states, like the UK and Poland, to defer a decision, and it would be a way of increasing the threshold for qualified majority, without appearing to do so.

Why the Balance Changes

Weights

The changes in weights are simple and straightforward. The weighted votes in the Nice Treaty disappear, and are replaced by the member states' share of the population. There is no longer any degressivity. The overall effects can be seen in Table 1. Member states' gains and losses in

Table 1	Changes in voting weight and blocking potential										
EU27	Weight						Share of BM %				
	Pop.	%	Vote Nice	%	Over- .rep	Diff	Nic e vote	Nic e pop	DM pop	Diff	
QMV			255	73.91				62	65		
BM			91	26.38				38	35		
Germany	82,4	16.7	29	8.41	0.50	2.0	31.9	44.0	47.8	1.09	
France	62,9	12.8	29	8.41	0.66	1.52	31.9	33.6	36.5	1.09	
UK	60,4	12.3	29	8.41	0.69	1.46	31.9	32.3	35.0	1.09	
Italy	58,8	11.9	29	8.41	0.71	1.42	31.9	31.4	34.1	1.07	
Spain	43,8	8.9	27	7.83	0.88	1.13	29.7	23.4	25.4	0.85	
Poland	38,2	7.7	27	7.83	1.01	0.99	29.7	20.4	22.1	0.75	
Romania	21,6	4.4	14	4.06	0.93	1.08	15.4	11.5	12.5	0.81	
Netherl.	16,3	3.3	13	3.77	1.14	0.88	14.3	8.7	9.5	0.66	
Greece	11,1	2.3	12	3.48	1.54	0.65	13.2	5.9	6.4	0.49	
Portugal	10,6	2.1	12	3.48	1.62	0.62	13.2	5.6	6.1	0.46	
Belgium	10,5	2.1	12	3.48	1.63	0.61	13.2	5.6	6.1	0.46	
Czech R.	10,3	2.1	12	3.48	1.67	0.60	13.2	5.5	5.9	0.45	
Hungary	10,1	2.0	12	3.48	1.70	0.59	13.2	5.4	5.8	0.44	
Sweden	9,05	1.8	10	2.90	1.58	0.63	11.0	4.8	5.2	0.48	
Austria	8,27	1.7	10	2.90	1.73	0.58	11.0	4.4	4.8	0.44	
Bulgaria	7,72	1.6	10	2.90	1.85	0.54	11.0	4.1	4.5	0.41	
Denmark	5,43	1.1	7	2.03	1.84	0.54	7.7	2.9	3.1	0.41	
Slovakia	5,39	1.1	7	2.03	1.86	0.54	7.7	2.9	3.1	0.41	
Finland	5,26	1.1	7	2.03	1.90	0.53	7.7	2.8	3.0	0.40	
Ireland	4,21	0.9	7	2.03	2.38	0.42	7.7	2.2	2.4	0.32	
Lithuan.	3,4	0.7	7	2.03	2.94	0.34	7.7	1.8	2.0	0.26	
Latvia	2,3	0.5	4	1.16	2.49	0.40	4.4	1.2	1.3	0.30	
Slovenia	2	0.4	4	1.16	2.85	0.35	4.4	1.1	1.2	0.26	
Estonia	1,35	0.3	4	1.16	4.25	0.24	4.4	0.7	0.8	0.18	
Cyprus	0,77	0.2	4	1.16	7.46	0.13	4.4	0.4	0.4	0.10	
Luxemb.	0,46	0.1	4	1.16	12.5	0.08	4.4	0.2	0.3	0.06	
Malta	0,4	0.1	3	0.87	10.6	0.09	3.3	0.2	0.2	0.07	
	493		345								

weight, compared with Nice, are the inverted value of their former over- or under-representation. The combined weight of the four largest states increases from 34% of the votes to 54% of the population. The weight of Germany doubles and that of most large countries increases by around 40%-50%. The weights of Spain and Poland only change marginally, but with the disappearance of degressivity, the gap to the large countries increases even beyond the pre-Nice situation, which is a blow to their old ambition of being considered members of that club. The weight of the medium-sized countries is reduced to around 60%, and that of the smallest member states much more.

The combined effect is that the weight of the large states increases on average around 2.5 times against the others. For example, the proportions between Belgium and France change from around 1:2.4 to almost 1:6. Medium-sized countries gain in relation to even smaller ones, etc. All in all, the double majority eliminates the effects of the last enlargements and restores the large countries' shares to around what they were in EU12. (One caveat is necessary. If the population criterion becomes the dominating feature under the Nice rules, it could be argued that the balance hardly changes at all.)

Blocking Minorities

The blocking potential is also affected by the lowered threshold and the need for greater blocking minorities. The situation does not change dramatically for the large states. Their strongest card was the population criterion already under Nice, and the threshold for this is even raised slightly in the Reform Treaty.

By comparison, the commission proposal in the Nice negotiations of a 'double single majority' with 50% of states and of the population, which was unearthed at the convention, would have reduced the absolute blocking potential of the large states (and for all other states in the same proportion). In absolute terms each of the large states, with the exception of Germany, would even have had slightly less blocking potential than if the original pre-Nice system had been continued, and three large states would no longer have a blocking minority in EU27. The limit for this is around 59%. This is, in all likelihood, why the Convention proposed 60%.

However, the balance of power is relatively precarious: the blocking potential of three large member states could be maintained also after an enlargement with the remaining countries in Western Europe and the Balkans, or with Turkey, but not both (Bobay, 2004).

The medium-sized and small countries are in a different situation. Not only do they lose in weight, but the relatively high threshold for the weighted votes, which was there strongest card, also disappears and the necessary blocking minority increases. Therefore they lose another 25% of their blocking potential. Spain's and Poland's loss in blocking potential, despite a slight increase in weight, is entirely an effect of this. The combined effect of the eliminated weighting and the lowering of the threshold is that the medium-sized states' blocking potential falls to less than half compared with Nice, and to even less for the smallest member states. Luxembourg loses 94% of its potential.

Majorities

In building majorities, the lowering of the threshold plays the other way and increases each state's voting potential. Germany's share more than doubles and that of the other large states increases by about two-thirds. A few of the countries that would lose in blocking potential now appear as marginal winners (Spain, Poland and Romania). And it mitigates the loss in weight of the other member states.

One aspect of the double majority is that it might shift the focus of member states somewhat, from the possibilities of blocking decisions to the relatively increased possibilities of reaching a majority. Six countries are sufficient to reach 65% of the population, and then all that is needed is nine more states, out of 21 possible. Any member states would do; the votes of medium-sized states would not be so essential any more.

Thresholds do not Change the Balance

Under the double majority changes in the threshold for population only increase or decrease the blocking potential of all member states by the same percentage. A raised threshold for states only has marginal effects. Furthermore, if the population threshold is raised, the majority of member states can only be decisive if there is an even greater polarisation between large and small countries.

However, the absolute level of the threshold determines whether some coalitions can block or not. This is largely what the negotiations in the IGC 2003-2004 were about. A higher threshold increases the blocking potential for a given coalition. But it also increases the potential of other coalitions with opposite interests.

The blocking potential through the weighted votes cannot be directly translated into the population criterion. To take Spain as an example, in some cases its potential allies are large states, e.g., concerning agriculture or fisheries, and then only a low threshold is needed. In other cases the natural allies are among smaller countries, for example countries receiving cohesion funds, and then a very high threshold would be necessary. At 65% Spain could block with two large countries and one medium sized country, at 67% with two large and Lithuania as under the Nice rules, and at 68% with Malta.

Were Any Other Options Possible?

The large countries were resolved to get the double majority through in the IGC 2007. Germany was equally intent on gaining more weight than other large states, and probably saw the double majority as the only way. There was no wish to open a real discussion of this issue, and the Polish proposals were received coldly. However, a few other models have figured in the debate. Some of them could once have provided simple and balanced solutions, if the large countries had i.a. accepted a differentiation between Germany and the others.

More Votes to Large States

Technically it is quite easy to find a compromise, under Nice, by adding some more votes to the large states. The population criterion then becomes superfluous and could be abolished. In the 2003-4 IGC the Italian Presidency floated the idea of keeping the Nice rules with four more votes to Germany. This would have been enough to maintain a blocking minority of three large in EU27, and at the same time ensure that a majority of the votes represents at least 62% of the population. It would have been possible to go further along this road. Twelve more votes to Germany, and possibly two and one more to France and the UK would correspond to their blocking potential through the population criterion under Nice. This would, however, create dramatic

discrepancies between the large states, which could be avoided with a more degressive allocation.

Why the Square Root Wouldn't Fly

Weight in proportion to the square root of the population has been suggested by several authors over the last 15 years. The realism of Penrose's theories has already been discussed. The square root would, however, ensure consistent and equal degressivity throughout the system. In the Nice negotiations the Swedish delegation made a proposal based on the square root. This was not based on Penrose's theories, but was only meant as a practical compromise (Moberg, 2002). At some point many delegations were prepared to accept it, whether for true love or tactical reasons. The model was not accepted at Nice, probably because some of the large member states were hoping to get more, and because of their qualms about a greater weight for Germany. Eventually the large states got a bit more, in particular through the population criterion. (The irony is that, in weighted votes, they got slightly less combined). The Nice allocation is, actually, quite close to the square root in absolute numbers. Poland got four votes that Germany would have had, if the Nice votes had been distributed by the square root, while Spain got three from Romania. Otherwise the difference is just about plus/minus one vote for a handful of countries.

The square root formula has been overtaken by events. Ślomczyński and Życzkowski. ('the Jagiellonian model'), the signatories of the Open Letter, Plechanovová and lately the Polish government, have all suggested models based on the square root, with a substantially lower threshold, in the latter case 62%. This makes the proposals even less realistic, because it would decrease the blocking potential of the large countries dramatically. With the square root and the Nice threshold, three large states, including Germany, would have 99% of a blocking minority, with the proposed threshold just 67%. The prospects might be greater if, instead, the threshold had been raised to 75% or more.

But the Curve Could be Made Steeper

It is also possible to make the curve more proportional to population than the square root, but still keep it strictly degressive. The 'H-method', as it will be called here, after Anders Hagelberg who pointed out this possibility to the author, gives a whole a range of options at

different levels of proportionality (the method used by Felderer *et al.* is basically the same idea). In principle the only points to negotiate would then be the slope of the curve and the threshold.

The mathematical formula is quite simple. The square root can be defined as (weight in proportion to) the population raised to the power of 0.5. In principle any figure for power can be substituted. In popular terms one could say that the H-value (multiplied by 100) represents a percentage of proportionality. 0% is the same weight for all member states, 50% the square root, 59% closest to the maximum blocking potential of all countries under Nice, and 100% is full proportionality, as in the double majority.

A few examples, with one member state per cluster, and the 345 Nice votes redistributed with different slopes, are given in Table 2. Levels of 60% or more would automatically ensure that all decisions are backed by member states representing at least 65% of the population (with the Nice thresholds), and they would largely maintain the Nice clusters. At

Table 2	Votes in Nice and with equal degressivity							
EU 27	Votes							
	Nice	345 votes redistributed at different degrees of proportionality						
		50%= sqrt	60%	65	70%	80%	90%	100%= DM
Germany	29	33	38	40	42	48	53	58
France	29	29	32	34	35	38	41	44
Spain	27	24	26	26	27	29	30	31
Romania	14	17	17	17	17	16	16	15
Netherl.	13	15	14	14	14	13	12	11
Belgium	12	12	11	10	10	9	8	7
Sweden	10	11	10	10	9	8	7	6
Denmark	7	8	7	7	6	5	5	4
Ireland	7	7	6	6	5	4	4	3
Latvia	4	5	4	4	3	3	2	2
Luxemb.	4	2	2	1	1	1	0	0

about 70 the large states would have about the same degree of under-representation they had in the original EEC-6.

This method could also have been used to obtain a consistent allocation of seats in the Parliament, which according to the Reform Treaty is to be 'degressive' in an undefined way.

'Depopulation'

In the prelude to the summit in June 2007, and with the Polish demands for a radically different model, some actors were reportedly toying with the idea of putting a 'ceiling' to the population of Germany, or possibly all the large states. The population would then not be taken into account, or only partially, above a certain level. This would narrow the gap between the large countries and Spain/Poland and could re-introduce some amount of degressivity, in a crude way. In fact it would be possible to levy a substantial share of the population without jeopardising at least the blocking potential they have under Nice.

The Easiest Way: States and Population in the Same Bag. 'Overpopulation'

Another simple way would be to give a fixed number of votes to all member states irrespective of size, and then some more votes in proportion to their population (Moberg, 1998). The sum would be a member state's weight. This would actually do what the double majority claims to do, i.e., take both member states and population into account at the same time. The balance between member states would depend on the proportions between the total number of 'fixed' and 'proportional' votes. Medium-sized states would lose in practically all cases, but less so than in the double majority. Unlike the state leg in the double majority the fixed number would give small states some real weight. The easiest way to achieve this is just to add X fictitious millions to the population of each country in the double majority.

Conclusions

The main driving force behind the voting rules proposed by the Convention was the the large member states' wish to maintain their position, and in particular blocking power, after the enlargements.

Those member states that initially opposed the double majority had different agendas. The main objective of the more vociferous, Spain and Poland, was to remain 'almost' one of the large countries, and to maintain their blocking potential. The medium-sized and small countries, that had more to lose, had a lower profile. Most of these did not seriously pursue the Nice model, but eventually accepted the double majority, and some even pursued it actively. It may be that some did not realise the effects of the double majority. It might have been easier to present to domestic opinion, as losses of weight and differences to neighbouring states are not so evident. Furthermore, many sincerely believed in the allegations of 'ineffectiveness' in the Nice system. Some may have found other issues more important. Finally, no country wanted to be the one that torpedoed the Treaties.

The two main voting rule concepts in the IGC 2003-4 were in fact incompatible, as Nice was based on degressivity, and the double majority was not. Once the choice of a double majority of states and population had been made, a genuine compromise was no longer possible. A compromise on the *degree* of degressivity could only be found in a different framework. In the double majority the balance of power between member states is determined by the relative size of their population alone. The 'state' leg is hardly ever decisive. For all practical purposes the double majority is not double.

This entails a substantial shift in the balance. The long discussion about the threshold for states and population was basically a battle with windmills. The percentage of the population does not change the proportions between member states.

However, the absolute percentage is critical for some coalitions' potential to block. The negotiations at the 2003-2004 IGC focused on finding a solution that would be acceptable to Spain. The Spanish objective to maintain its blocking potential was largely achieved in the end, through an increase of the threshold for population, and possibly the provision that four states were necessary to form a blocking minority.

The motives for the Polish resistance to the double majority up to the summit in June 2007 were probably similar. What it achieved was a

postponement of the double majority and the lowering of the threshold for the 'Ioannina mechanism'. Time will show whether the latter will have any practical effect. If it does, it would be equivalent to a hidden increase of the threshold for qualified majority, even beyond that in the much criticised Nice treaty.

Even if the double majority enters into force it is an open question whether it would eventually stand the test of further enlargements. With the double majority there is no need to modify the rules in future enlargements with new members, or in view of the dramatic demographic changes that are to be expected.

An accession of Turkey around 2015 would, according to population forecasts, mean that it would soon become the largest member state and the gap with other large states would continue to grow after that. This would change the balance of power with any set of voting rules, but the effects would inevitably be greatest under the double majority. The question is whether the present member states are prepared to accept this, or whether there would be attempts to move back to a system with some degressivity.

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4. EP SEATS: THE POLITICS BEHIND THE MATH

Abstract: The paper examines the basic concepts and political motives behind the allocation of seats in the European Parliament and negotiations in the last inter-governmental conferences. It finds that the discussion reflects unresolved ideological differences, and that hardly any proposed model meets the requirements for a solution once and for all.

The purpose of this paper is to discuss some of the underlying concepts in the negotiations about the allocation of seats in the European Parliament (EP) and the political ambitions behind them. It does so by putting them in the context of the observations the author made, as a civil servant, during the Amsterdam and Nice inter-governmental conferences (IGC) and the Convention on the Future of Europe 2002-3.

It begins with discussion of the political issues involved, followed by a section on the different concepts of the role of the parliament. Then it discusses whether the allocation of seats should be proportional to population, how "degressivity" should be measured and the basis for calculations. After an account of negotiations at the latest inter-governmental conferences and the Convention, it discusses whether several models that have been proposed meet the Parliament's demands for a solution once and for all.

"The Bermuda Triangle"

The role and the composition of the European Parliament has been a constant element in the IGCs on treaty changes and successive enlargements. This goes from at least the German reunification, over the accession of Austria, Finland and Sweden in 1995, the Amsterdam IGC in 1996-97, the Nice IGC in 2000, the Convention on the future of Europe, to the subsequent IGCs on the Constitutional Treaty and the Lisbon Treaty.

The allocation of seats in the European Parliament among member states has been one of the three corner stones in what has been called the "institutional triangle", sometimes jokingly the "Bermuda triangle". The other two are the weight and power of member states in the Council of Ministers, and the composition of the Commission. This "triangle" was clearly the most sensitive part of all these conferences, over which member states sometimes failed to agree, and sometimes agreed reluctantly, only to revisit the issues at the next inter-governmental conference. In this triangle, the weighting of member

states' votes in the Council, where they can act, was by far the most sensitive part, and the issue that remained to the very last hour of each IGC. The number and allocation of seats in the Parliament was a less touchy issue, and was occasionally used to lubricate the negotiations.

The allocation of EP seats does not directly concern the power of member states to make or stop decisions. Member states do normally not control the votes of members of parliament. Members do normally not vote along nation lines, although it is interesting that they sometimes do, but normally rather with their party groups. It is more a matter of status. Larger states wish to see the size of their population reflected in the allocation of seats, and tend to argue for a proportional representation. Other states tend to argue for a more balanced representation, with "clusters" with the same representation for states of "comparable" size. This "clustering" has, however, been less pronounced than in the parallel discussion of weights in the Council.

Logically, the importance of the number of seats in the EP should be less for larger states than for smaller states. It should not matter very much for the (indirect) power, or even symbolically, for, say Germany if she has 90 or 99 seats. But for some of the smaller states it is a vital issue to have a number of seats that gives each of their major political parties a chance to be represented. Therefore the number of seats in the EP has been a card the larger states have been able to play, in order to put pressure on the smaller states concerning votes in the Council.

What kind of a Parliament is it?

It would be tempting to start with a treatise by William Penn published in 1693 titled "An Essay Towards the Present and Future Peace Of Europe, By The Establishment of an European Dyet, Parliament, Or Estates " where he among other things proposed the creation of a European parliament. He also proposed an allocation of seats in this body, which has some resemblance to the weighted votes in the EU Council, as they were 1973-2004. However, what Penn had in mind was hardly a parliament in our sense of the word, but rather a forum representing states.

The present role of the European Parliament seems to reflect unresolved tensions between widely different concepts, between those

who see the EU as a joint venture between member states, as the treaty does, and those who wish to liken it to a (federal) state. The essence is whether the EP is seen as representing also member states, to some extent, or only representing citizens.

The original parliamentary assemblies of the now defunct European Coal and Steel Community, the EEC and the Euratom were merged, at the same time as the executives of these communities in the Fusion Treaty of 1966, into one Parliamentary Assembly of the European Communities. This Assembly was basically consultative, and it was composed of delegates from the national parliaments in member states. This reflected the mainly inter-governmental nature of these communities. In the original EEC treaty members of the Assembly were seen as "representatives of the peoples brought together in the Community", rather than of the population as a whole. This wording was kept also after direct elections were introduced in 1980.

In subsequent treaty changes its name was changed to the European Parliament, and its tasks became substantially widened and it was, in particular, put on equal footing with the inter-governmental body, the Council, on most legislation issues. And it was seen more and more as representing the whole population. After Lisbon the EU treaty now reads: "Citizens are directly represented at Union level in the European Parliament."

The tasks that are given the European Parliament in article 14 of the Treaty on the European Union are these: *"The European Parliament shall, jointly with the Council, exercise legislative and budgetary functions. It shall exercise functions of political control and consultation as laid down in the Treaties. It shall elect the President of the Commission."* Its role is embedded in procedural rules. For example, it "elects" the President of the Commission on proposal by the European Council. It approves the Commission as a body, and it has the power to force the Commission to resign.

However, in the public debate in some countries there has also been a strong current of what the author, for lack of better, will call 'federalism'. This view includes a vision of the European Parliament as a representative body of the same kind as national parliaments. This

has often been coupled with a wish to see the European Commission as a European government, a rhetoric which members of the Commission have often also used themselves. In the same spirit there have also been demands that the Commission should be appointed by the Parliament, from the party or parties that had won in the last direct elections of that Parliament, thus doing away with the perceived “democratic deficit”. Or that its President should be elected by the Parliament, and that the other members should be chosen by her/him as the case is in many parliamentary system. (But it has hardly been suggested that it should have the power to dissolve the EP and call new elections, in the normal parliamentary manner.) These views are mainly found in Germany and partly in some neighbouring countries, actually more or less the countries that once formed the German-Roman Empire - and in party groups in the EP. They are more controversial in other countries.

It's beyond the scope of this paper to discuss these views. Suffice to say to that it is member states, in the Council and European council that are the “government” of the EU. The Commission has clearly defined tasks: to make proposals, to negotiate with third countries, to monitor member states' implementation of EU legislation, and to carry out decisions. Furthermore, the treaty stipulates that the *“Commission shall be completely independent.... the members... shall neither seek nor take instructions from any Government or other institution, body, office or entity.”* Obviously, it could not be independent after election campaigns, forming alliances etc. It would then be necessary to create a new body for at least the monitoring task.

Anyway, these “federalist” ideas were not seriously pursued, not even at the Convention, in all likelihood because participants who held such views realised that there was not support for them in member state Governments and Parliaments. The Convention proposed to keep the roles of the institutions largely as they were, but instead garnished the treaty with more “federalist” wording and symbols. The author therefore believes the window of opportunity, if there ever was one, is now closed.

Should there be an overrepresentation of smaller states?

Ever since the beginning of the EEC, the allocation of seats in treaties has been based more or less on the population of member states, with

some over-representation of medium-sized and small member states, but less so than in the weighted votes in the Council. This has become known as “degressive proportionality”. This is probably more the result of a negotiated compromise between different interests, than of an ideological discussion.

In the beginning, with few member states, the allocation of votes and seats was very simple, lumping together of countries of roughly the same size in “clusters”. At subsequent enlargements new countries have been tucked into these clusters or in newly created clusters between them. Thus the element of degressivity has become more and more elaborate, ranging over the whole scale from the smallest state to the largest. And the total number of members has increased. It was often the easy way out of discussions. There was a substantial general increase of numbers when direct elections to the EP were decided.

Originally Germany was more or less the same size as the other in the cluster of “large” countries. After reunification the population of Germany increased to some 40% more than the other large states. It is understandable that Germany requested some recognition of this in the institutional provisions, and at the summit in Edinburgh in 1992 she finally got it through a substantially greater number of seats in the Parliament, while some other states got a symbolic increase.

This situation has been challenged by the more “federalist” view that the allocation of seats should be proportional to population, following the principle “one man, one vote”. In the author’s view, one argument against this view is that also many member states make exception to this principle in their national elections. First, many member states systematically favour certain regions, be they less populous, rural or peripheral, either through the constituency structure as the overrepresentation of Scotland in the British system, or through a bicameral system like through the German Bundesrat or the French Senate. Other exceptions from the one person – one vote are the methods for proportional allocation of seats which are applied in many member states and, which favours bigger parties as opposed to small. The threshold for small parties in many countries also works in the same direction.

One particular idea, which should be mentioned in this context, is that of “European lists”. It meant that a certain number of the seats should be set aside for elections in common EU-wide constituencies, across member state boundaries, and make it possible for citizens to vote for candidates in other countries. This would of course preclude degressivity. The idea surfaced on several occasions, during the IGCs in questions and in the Convention, but did not find favour and was dropped.

The author is not very convinced about the theoretical justification for any kind of allocation of seats. Basically it is a matter of political choice, and what all member states can agree about. But it must be stressed that, if a degressive allocation is agreed, the simple principle “one person, one vote” cannot be fully observed. The two concepts are incompatible.

How should “degressivity” be defined and measured?

Degressivity has never been written as a formula in the treaties. The EP did propose a formula for the changes in 1992. It comprised a minimum number of seats for each state, then additional seats for every 500.000 inhabitants up to 25 million, then for every million up to 60 million, and for every two millions after that. After that, however, the EP has been arguing for a basically proportional representation.

In the AFCO report, which contained a proposed allocation for the period 2009-2014, and which will be discussed later, the EP defined degressivity as “the ratio between the population and the number of seats...must vary...in such a way that each Member from a more populous Member State represents more citizens than each Member from a less populous Member State and conversely, but also that no less populous Member State has more seats than a more populous Member State”. In other words, the difference in votes/seats between a certain country and the larger ones should not be greater than the difference in population can justify.

This is a weak definition. It hardly describes the degressivity that has existed until now, both in voting rules the Council and the allocation of seats in the EP. The concept of “degressivity” implies a continuous change or a change in brackets. The very Latin origin of the word (“*de*”

meaning off, and “*gradior*”, to walk slowly and solemnly) underpins the argument that this feature should characterise the entire allocation. The derivative, as it were, should be smaller than 1 along the whole range, and preferably more or less constant.

When the allocation of seats among member states have been discussed in the IGCs and in the Convention “degressivity” has usually been measured as the number of inhabitants per seat. This way of calculating gives the impression of a huge under-representation of the larger states and vice versa. And it has in all likelihood been intended to give that impression, and provide arguments for re-allocation. It conceals the fact that the smaller states are just that, and that they therefore only have a small weight in the overall balance. This means that small states can be given a rather substantial over-representation, without creating more than a moderate under-representation of larger states.

A fairer way to calculate is therefore to use the quota between a member state’s share of the seats, and a member state’s share of the population. This way to calculate also shows the amount of over- and under-representation, and a point of equilibrium. Countries over the ratio of 1 are over-represented, and vice versa. As can be seen from the table below, based on the Nice deal, many of the smaller states are strongly over-represented, with a maximum of 9 times for Luxembourg and Malta, but still the largest states have 79 per cent or more of a proportional representation.

Populations or citizens?

Pukelsheim and others have argued that the Treaty’s wording of “citizens” in the treaty should be taken literally, and that the allocation of seats among member states should therefore be based on the number of citizens, while most have based the allocation on population figures.

There are a number of problems, both principal and practical, with basing the allocation on citizens. One important point is that there is considerable migration within the EU. Ever since the Maastricht treaty, citizens of other member states are also entitled to vote and stand in the elections to the European Parliament in their country of residence. They also have voting rights and the right to run for office in municipal elections. So, in addition to the citizens in each country there are other

Table 1 Measuring degressivity in the Nice treaty						
EU27	Population	Seats	%pop.	%seats	Pop/seat	Quota
Germany	82165000	99	17,07	13,52	829949,5	0,79
UK	59623000	72	12,39	9,84	828097,2	0,79
France	58747000	72	12,21	9,84	815930,6	0,81
Italy	57680000	72	11,98	9,84	801111,1	0,82
Spain	39442000	50	8,19	6,83	788840	0,83
Poland	38654000	50	8,03	6,83	773080	0,85
Romania	22456000	33	4,67	4,51	680484,9	0,97
Netherlands	15864000	25	3,3	3,42	634560	1,04
Greece	10546000	22	2,19	3,01	479363,6	1,37
Czech R.	10278000	20	2,14	2,73	513900	1,28
Belgium	10239000	22	2,13	3,01	465409,1	1,41
Hungary	10043000	20	2,09	2,73	502150	1,31
Portugal	9998000	22	2,08	3,01	454454,6	1,45
Sweden	8861000	18	1,84	2,46	492277,8	1,34
Bulgaria	8191000	17	1,7	2,32	481823,5	1,36
Austria	8092000	17	1,68	2,32	476000	1,38
Slovakia	5399000	13	1,12	1,78	415307,7	1,58
Denmark	5330000	13	1,11	1,78	410000	1,6
Finland	5171000	13	1,07	1,78	397769,2	1,65
Ireland	3775000	12	0,78	1,64	314583,3	2,09
Lithuania	3699000	12	0,77	1,64	308250	2,13
Latvia	2424000	8	0,5	1,09	303000	2,17
Slovenia	1988000	7	0,41	0,96	284000	2,32
Estonia	1439000	6	0,3	0,82	239833,3	2,74
Cyprus	755000	6	0,16	0,82	125833,3	5,23
Luxembourg	436000	6	0,09	0,82	72666,67	9,05
Malta	380000	5	0,01	0,68	76000	8,65
	481333000	732				

EU citizens who are also entitled to vote. Or, the other way around, some of the country's citizens may not be resident in the country any more, but in other EU countries, or outside the EU.

Secondly the number of citizens includes children, who undoubtedly are citizens, but do not yet have yet the right to vote. The age structure of member states, and the proportion of children, varies widely. Population statistics also include a greater or smaller proportion of citizens from non-member states, to whom most member states also grant voting right in municipal elections, but not in EU elections. A curious argument, at one point during the heated discussions in one of the IGCs, was that also the descendants from each state outside the EU, like the USA, should be taken into account in the “population” figure. This would certainly open up new perspectives.

Even so, it seems that the only practical possibility is to base an allocation of seats on the population figures. It is beyond the scope of this paper to go into the statistics of member states, for which there exist detailed agreed criteria, which should hopefully avoid a double count of migrant EU citizens. However, Member states’ methods for collecting the data may differ. Demographic development in member states is of course, far from uniform. The population of most of the recent member states has declined in recent years, and according to UN forecasts it will decline in most member states.

The Amsterdam and Nice treaties

The allocation of seats, was together with the other corners of the triangle, an important part in the Amsterdam IGC on Treaty Reform that was held 1996-97. This was held in the light of the coming enlargement to Central and East European countries. Therefore it also discussed the need to put an over-all ceiling to the size of the Parliament, which meant that number of seats of old member states had to be reduced. A total number of 700 was agreed. The IGC brought about a number of treaty changes, but failed to reach agreement on the triangle. It was then decided to hold a new IGC in 2000, which should focus on the “left-overs” from Amsterdam, i.e. the institutional changes made necessary by the enlargement. This IGC ended with the summit at Nice, and an agreement was reached which has been the object of much (and in the author’s view exaggerated) criticism.

Again the most sensitive issue in the IGC was the voting rules in the Council. Concerning the allocation of seats in the Parliament two

approaches were discussed at the earlier stages. One was a proposal from the EP itself, which had a few representatives in the IGC, to give all states a minimum of 4 seats and then allocate the rest in proportion to population. Another proposal, which was discussed, was to give all countries a minimum of possibly 6 and reduce the number for old member states *pro rata parte*.

The final proposal from the French Presidency increased the total number of seats to 732, and was based on a *pro rata parte* reallocation with some bias in favour of the large countries, and in practice no change for Germany. It also proposed that new member states should have less voting weight in the Council, and fewer seats, than old member states of the same size. There were strong protests against this from Poland and other candidate countries, and alternative proposals from present members. In the end it was only Malta that was punished, with somewhat less weight and seats than Luxembourg.

The view that the EP seats were “tossed around like loose change” is exaggerated. However, there were a few examples. In the final proposals Spain got a surprisingly great voting weight, but its seats in the EP did not increase in proportion to the overall increase from 700 to 732, which looks like more than a coincidence. In the final hours, one country in the ten million cluster refused to accept the proposal for the voting weights, but did so after having received two more seats in the EP. Other countries, with the same or slightly greater population, immediately objected and were also given two more seats. The initial effect of this was that Sweden, the next smaller country, got fewer seats than the difference in population could justify. So on this point, and for Malta, the result was rather the opposite of degressivity. Furthermore, in this handing out, some of the seats that been earmarked for the Czech Republic and Hungary, also in the ten million cluster, had been used up and the total number had to be increased to 736 when the Nice Treaty provisions were later integrated in the Accession Treaty.

The Lisbon Treaty

It is beyond the scope of this paper to describe the Convention on the Future of Europe. It worked 2002-2003 and its final proposal for a constitutional treaty formed the basis of what was later, after many difficulties, to become the Lisbon Treaty. It was composed of

representatives of national Parliaments, the largest group, of the European Parliament, the smallest but best co-ordinated group, and of representative heads of governments and of the Commission.

The mandate for the Convention did not include the institutional framework, and effects of the Eastern enlargement in 2004. This had been dealt with in the Nice IGC. It was only halfway through the Convention that it became clear that these issues would be raised again, probably by countries which were dissatisfied with the voting rules in the Council. Unlike other issues at the Convention, there were no working groups or thorough discussions for the institutional issues, only a few plenary discussions based on proposals from the Presidium.

At a rather late stage in the work, the Presidium of the Convention floated the idea that the allocation of seats should 'proportionally' represent the number of citizens, but with a minimum of four MEPs per member state. There was a strong reaction against the proposal. So, in the following day the Presidium revised the proposal and said that it should be based on "degressive proportionality" in an unspecified way. Instead the Convention proposed that the allocation in practice should be decided by the Parliament, i.e. by the Council on a proposal by, and with the approval of the EP.

The AFCO model goes beyond the treaty requirements

In 2007 the EP made a proposal for the allocation 2009-2014. This proposal, the AFCO report, was not based on any formula, but was rather a "handmade" attempt to amend the Nice allocation, by using up the remaining 14 seats up to the maximum 750 laid down in the treaty. In doing so it eliminated the anomalies concerning degressivity that did exist. But it created a new one in giving Germany a lower population/seats ratio than next larger countries. Therefore, it is not degressive, even by AFCOs own definition, in these brackets. A further anomaly was created when the European Council decided to give Italy the same number of seats as the UK.

In its discussion the comments on the principle, which proposed by the Convention and later included in the Lisbon Treaty, that the EU is a "union of states and citizens". The report sees this as a hint that there should be a trade-off, so that less proportionality in the Council, in the

future, should result in more in the EP. In fact, this rather unclear principle did not reflect a fundamental change of philosophy. The principle was in all likelihood only presented in order to prepare the ground for the double majority in the voting rules in the Council, and thereby increase the weight of the larger countries. So the Lisbon treaty did not decrease proportionality in the Council, but took a huge step in the opposite direction.

Finally, the AFCO report said it would be ideal to find *“an undisputed mathematical formula of “degressive proportionality” that would ensure a solution not only for the present revision but for future enlargements or modifications due to demographic changes”* and commissioned a group to find this. This resulted in the Cambridge compromise. However, the report immediately went on to recognise that every formula rests on political assumptions.

The ideal model?

The question, in the following sections, is whether various models meet the requirements of the treaty, whether they fulfil the wishes for a solution once and for all, and whether they are simple enough and acceptable.

As the AFCO report points out, it is hardly possible to find a model which is “undisputed”. Whether a model is acceptable is an entirely political question, in the hands of EP members, and member states. And this will probably to a great extent depend on how closely it relates to the present composition.

Furthermore, precisely the laudable ambition to find a solution once and for all means that it gives no room for bargaining, which is dear to politicians. And finally mathematical formulas may make politicians feel uncomfortable, even if they once were good at mathematics in school.

There is an almost infinite number of possible genuinely degressive models. It would of course be possible to construct an allocation of the kind that the EP proposed in 1992. Or, theoretically, one could decide a certain degree of degressivity between each state, or cluster of states, and the next larger state or cluster, and then simulate until the

limitations are met. But the easiest way is to base an allocation on some kind of second degree, or power, function.

The important elements in the discussion of allocation are degressivity versus proportionality, the minimum and maximum number, and probably member states' tendency to see the allocation in terms of "parity", and to make sure that the neighbouring country doesn't get more.

Rounding is the least problem. In most models it should be easy to agree on a simple safety catch for cases where standard rounding would result in too many seats totally, for example by skipping the greatest rounding. But more important is that the treaty only specifies the maximum number of seats. Rounding errors could also be solved by reducing the total number.

The Cambridge compromise is hardly degressive

Several authors, like Pukelsheim, have argued for an allocation where each state is given a minimum number of seats, and the rest is handed out in proportion to the population, thus almost reflecting the notion of "one man, one vote". This idea has been retained in the Cambridge compromise. It is also in line with the aspirations the EP has had in later years, to come as close as possible to proportional representation.

This model certainly meets the requirement of simplicity. However the allocation differs a great deal from the present one and the traditional clusters have been dissolved, which may diminish its chances.

The Cambridge compromise tries to use the whole span between the minimum and maximum number of seats, and squeeze them into a formula, so that the largest state would reach the maximum. The group goes on to discuss how the minimum number could be lowered at further enlargements, which is not foreseen by the treaty.

The minimum and maximum were limits that had to be respected in whatever allocation would be decided later, whether produced by an objective formula or not. The maximum does not necessarily have to be reached. It complicates things unnecessarily if these limits are squeezed into a formula and it may be counterproductive. For the foreseeable

future, the country affected by the maximum can only be Germany. Things may change at a future accession of Turkey, but this is not imminent. It is also reasonably clear that the small countries, which could benefit from the minimum, are in the span Malta to, at the most, Latvia.

However, the author's greatest objection is that it is highly doubtful that the Cambridge compromise can be called "degressive", and certainly not in the sense the allocation has been so far. The only degressive element is in the minimum, which creates a knick and makes the total population/seat ratio taper off as states increase in size. But there is full proportionality, and no degressivity, for increases in the population beyond that point. The fact that the Presidium of the Convention first formulated a proposal, with a minimum number and a simple proportionality beyond that point, calling it "proportionally representing" and then, after heavy criticism, changed the wording to "degressively proportional" shows that the final proposal was meant to be something different. The Cambridge group even uses the fact that its proposal is less degressive, as an argument in favour of it ("greater potential for proportionality").

The square root is long overtaken

In 1946 Lionel Penrose suggested an allocation of votes by the square root of the population, mainly with the UN in mind. This was said to give citizens in small and large states the same, indirect, power. Several authors have suggested it as the basis for voting weights in the Council. At the Nice IGC Sweden formally proposed it, simply as a possible practical compromise.

The author doubts that Penrose's theoretical argument is relevant for allocation of EP seats, simply because its members do not vote *en bloc* along nation lines, unlike the Council, or the UN General Assembly. However, it would give a perfectly degressive and mathematically correct allocation, of the kind AFCO and Ramirez Gonzalez have been asking for, and it would be bullet proof against manipulation. But it is not a realistic option, for the simple reason that the allocation of seats has been more proportional than the square root, since at least the changes made in 1992. Furthermore, in the author's experience from the Nice IGC, some politicians may feel a bit uncomfortable even about

this simple calculation, quite apart from the political objections they may have.

Ramírez González' parabolic method is not so simple

The article by Victoriano Ramírez González is certainly a good attempt to find the “ideal” allocation of seats based on “objective” criteria, that the AFCO report was asking for. The model is a second degree function beginning at the minimum number and going all the way up to the maximum, which the largest country would then get. The fact that it is parabolic makes it more degressive than the Cambridge compromise, and degressivity is equal over the whole range. This brings it rather near the present allocation, which should increase its chances. It meets many of the requirements. It should be possible to apply the formula, without further discussion, when new member states join, or in view of the rather dramatic demographic changes in member states that can be expected.

On the other hand, like the Cambridge model, he assumes that all the limitations in the treaty must actually be reached, and he includes them in his formula. Again, this is not required by the treaty. This leads to unnecessarily complicated calculations. It is hardly possible for most political decision-makers to calculate the results themselves. This may make it hard to digest.

Alpha proportionality might be easier

The “alpha proportionality” might provide a solution. It has been suggested already in the late 1970's and precisely for the allocation of seats in the EP. It has also been used by Paterson and Silárszky (2003) as a basis for votes in the Council. Without being aware of this, the author raised the possibility of weighting the votes in the Council by this method, then calling it the H-method after a colleague Anders Hagelberg, who pointed out the possibility.

The basic idea is very simple, so that even a non-mathematician like the author believes he can grasp it. The square root can be defined as (seats in proportion to) the population raised to the power of 0.5. It is equally possible to substitute a higher figure, thus making the slope steeper,

Table 2. Possible allocations with alpha proportionality								
	Population	Present	Power, %					
			67	69	71	73	75	77
Germany	81 802 257	99	86	88	90	92	94	96
France	64 714 074	74	74	75	77	78	79	80
UK	62 008 048	73	72	73	74	75	77	78
Italy	62 008 048	73	72	73	74	75	77	78
Spain	45 989 016	54	59	59	60	61	61	62
Poland	38 167 329	51	52	52	53	53	53	54
Romania	21 462 186	33	35	35	35	35	35	34
Netherlands	16 574 989	26	30	29	29	29	28	28
Greece	11 305 118	22	23	23	22	22	21	21
Belgium	10 839 905	22	22	22	22	21	21	20
Portugal	10 637 713	22	22	22	21	21	20	20
Czech Rep.	10 506 813	22	22	21	21	21	20	20
Hungary	10 014 324	22	21	21	20	20	20	19
Sweden	9 340 682	20	20	20	19	19	19	18
Austria	8 375 290	19	19	18	18	17	17	17
Bulgaria	7 563 710	18	18	17	17	16	16	15
Denmark	5 534 738	13	14	14	13	13	13	12
Slovakia	5 424 925	13	14	14	13	13	12	12
Finland	5 351 427	13	14	13	13	13	12	12
Ireland	4 467 854	12	12	12	11	11	11	10
Lithuania	3 329 039	12	10	10	9	9	9	8
Latvia	2 248 374	9	8	7	7	7	6	6
Slovenia	2 046 976	8	7	7	7	6	6	6
Estonia	1 340 127	6	6	6	6	6	6	6
Cyprus	803 147	6	6	6	6	6	6	6
Luxemb.	502 066	6	6	6	6	6	6	6
Malta	412 970	6	6	6	6	6	6	6
	502 771 145	754	750	750	750	750	750	750

and the allocation more proportional than the square root, while still keeping it as strictly degressive and "objective" as the square root.

Theoretically this would give a whole a range of options at different levels of proportionality, from the same number for all states, to full proportionality. The necessary recalculation at the accession of new members could also be done easily. All that is needed is an Excel sheet.

Some politicians may find even this model uncomfortable. But it can be presented in very simple terms. One could say that the square root is 50 percent of full proportionality, and the other options higher percentages. This is the only thing there would have to be negotiations about. A table with the allocation at various percentages could be presented, and it would be perfectly possible to discuss at committee meetings until an agreement is found.

The allocation could be made in the following steps. First a calculation, by this method, to see which states should be given the minimum number of seats, or if the maximum number gives a surplus. Then, the remaining votes are distributed again, by this method and standard rounding. The result is perfectly degressive and fulfills all conditions.

An example of such a table is shown above. It would be necessary to choose a higher figure than 50 percent, since the present allocation (measured by least squares) is closest to about 71-72 per cent. This example goes from 67 per cent which gives roughly the allocation the medium sized states have today, to 77 per cent where Germany would automatically get 96 seats. However, it does not entirely reproduce the present "clusters".

Conclusions

The allocation of seats in the European Parliament is basically a political issue. It cannot be solved by mathematical exercises. There are in fact an almost infinite number of solutions which satisfy all the requirements of the Lisbon treaty.

Several of the models that have been presented include greater restrictions than the treaty imposes. This complicates the formulas unnecessarily. However this is in line with the ambition of the European Parliament, since the 1990's, to get an allocation, which is proportional to the population of member states beyond a certain minimum of seats. The Cambridge compromise commissioned by the

EP proposes this. This is hardly in line with the treaty's provision that the allocation should be degressive.

There are other models, which are degressive. The allocation by the square root has been overtaken long ago and is unrealistic. The parabolic method may be seen as too complicated, but comes closer to the present allocation. In the author's view a solution which would be easier to agree about is the alpha proportionality.

However, it is far from certain that there will be political agreement about any kind of a mathematical formula. It is possible that the notion of "clusters" of, and "parity" between, member states will eventually be an important element, and that the end result will be a negotiated deal. Even so, it would be a step forward if negotiations started from an 'objective' model.

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Postscript 2014: The EP seats are not really proportional

The author's suspicions proved to be correct. In 2013 the Committee for Institutional Affairs negotiated an allocation which was later adopted, with minor adjustment, by the Parliament and The Council of Ministers. This was a negotiated deal, far from an 'objective' model based on impartial criteria. For example, one of the arbitrary agreed points in the discussion was that no country should lose more than one seat. This was the agreed allocation.

	Population	%	Seats	%	Ratio
Germany	81843743	16,1	96	12,8	0,79
France	65397912	12,9	74	9,9	0,77
UK	62989550	12,4	73	9,7	0,78
Italy	60820764	12	73	9,7	0,81
Spain	46196276	9,1	54	7,2	0,79
Poland	38538447	7,6	51	6,8	0,9
Romania	21355849	4,2	32	4,3	1,01
Netherlands	16730348	3,3	26	3,5	1,05
Greece	11290935	2,2	21	2,8	1,26
Belgium	11041266	2,2	21	2,8	1,29
Portugal	10541840	2,1	21	2,8	1,35
Czech Rep.	10505445	2,1	21	2,8	1,35
Hungary	9957731	2	21	2,8	1,43
Sweden	9482855	1,9	20	2,7	1,43
Austria	8443018	1,7	18	2,4	1,44
Bulgaria	7327224	1,4	17	2,3	1,57
Denmark	5580516	1,1	13	1,7	1,58
Slovakia	5404322	1,1	13	1,7	1,63
Finland	5401267	1,1	13	1,7	1,63
Ireland	4582769	0,9	11	1,5	1,62
Croatia	4398150	0,9	11	1,5	1,69
Lithuania	3007758	0,6	11	1,5	2,47
Slovenia	2055496	0,4	8	1,1	2,63
Latvia	2041763	0,4	8	1,1	2,65
Estonia	1339662	0,3	6	0,8	3,03

Cyprus	862011	0,2	6	0,8	4,71
Luxembourg	524853	0,1	6	0,8	7,73
Malta	416110	0,1	6	0,8	9,76
	508077880		751		

Furthermore, the allocation does not meet the requirement that the allocation should be degressive. The most important flaw is the exorbitant number of seats for Germany. After the German reunification Germany was given a number of additional seats in the EP to reflect its additional population, and as a consolation prize for the fact that the country was not given a greater voting weight in the Council. This motive is now irrelevant. The Lisbon treaty has done away with any reason for special treatment of Germany. The new voting rules in the Council give Germany an enormous weight, and its number of seats in the EP can be calculated in the same way as for every other state. The effect of the excessive number of seats for Germany is that the United Kingdom, France and possibly even Spain have become somewhat more underrepresented than Germany, quite against the principle of degressivity.

A comparison with the alpha proportional table shows what a reasonable number of seats should be. On the other hand, if the UK, France and Italy are only to be given 73 vz. 74 seats, it corresponds to a proportionality of 69-73 per cent (with population figures from 2013), in which case Germany should only be entitled to between 87 and 91 seats.

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