

Why so much unanimity? Voting in the EU Council of Ministers

Paper presented at the 4th biannual workshop of WG-7

Mariehamn, Åland

August 5-9, 1998

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Abstract

This paper discusses voting in the EU Council of Ministers, how it has been modelled in the political science literature and how empirical observations give credibility to these models. There is certain inconsistency between the existing models of decision making and empirical observations of the behaviour of the Council. The unanimous decision making in the Council is much more frequent than one would expect from the modelling results. However, it is shown that under certain conditions unanimity is expected. Nevertheless, the question how likely it is that these conditions hold in the "real world" situations is left open. It is possible that some other models of decision making, especially the vote trading model, would give a more accurate picture of the process. The institutional structure of EU has some features that improve the likelihood of vote trading.

1 Introduction

The popularity of analytical models of the EU decision making has grown considerable during past few years. These models have increased profoundly our knowledge of the decision making process and the power distribution among EU institutions. Basically, there are two kinds of models of EU decision making in the political science literature. The first set of models analyses the power distribution of the EU institutions with a priori power indices. (e.g. Herne & Nurmi 1993; Widgrén 1994; Kirman & Widgrén 1995; Lane et al. 1996). The other strand of modelling uses spatial models to examine the process of decision making. This paper is connected to this tradition.

The aim of this paper is to discuss voting in the EU Council of Ministers, how it has been modelled in the political science literature and how empirical observations give credibility to these models. It is claimed that there is certain inconsistency between the existing models of decision making and empirical observations of the behaviour of the Council. The unanimous decision making in the Council is much more frequent than one would expect from the modelling results. However, I show that under certain conditions unanimity is expected. Nevertheless, the question how likely it is that these condition hold in the “real world” situations is left open.

2. Modelling the voting process

Most of the Council decisions are made according to the consultation, co-operation or co-decision making procedures. In this section only the consultation procedure is considered. This is the simplest of the procedures according to which EU legislates. This procedure has following steps (Dinan 1994, 274):

1. The Commission submits a proposal to the Council, which asks the European Parliament for its opinion.
2. Parliament gives its opinion.
3. The Commission may amend its proposal on the basis of Parliament’s opinion but is not obliged to do so.

4. On the basis of unanimity or qualified majority voting, the Council may adopt the proposal or may by unanimity amend the proposal.

The Parliaments' opinion is not binding and, consequently, the EP does not play a decisive role in the consultation procedure. Thus, the actual model of consultation procedure can be summed up to two steps: 1) the Commission makes a proposal and 2) the Council accepts the proposal with qualified majority or unanimously or makes amendments and accepts the amended proposal by unanimity.

The following spatial model of Council decision making is based on several of the earlier models presented in the literature and is for all practical purposes similar to them (see e.g. Steunenberg 1994; Tsebelis 1994, 1996; Garret & Tsebelis 1996; Moser 1996a 1996b; Crombez 1996, 1997; Tsebelis & Kreppel 1998). For practical purposes it can be assumed that the Council is composed of seven members with Euclidean preferences and that the qualified majority requires five votes out of seven¹. Furthermore, I assume that member countries vote sincerely i.e. they vote according to their preferences.

In this section the consultation procedure is analysed using a one-dimensional model. Following the examples in the literature this dimension is named as 'integration dimension'. If the preferred point of an actor is to the right she prefers more integration than actors to her left. Furthermore two assumptions of the preference orderings of the players are made:

- Status quo point is to the left from the preferred points of the member countries (i.e. they prefer more integration in EU).
- The Commission acts as a unitary actor and has its preferred point to the right of all member countries (i.e. it is more 'pro integration' than the member countries).

This situation is depicted in Figure 1. The solid horizontal line represents the policy dimension and the numbers on it represent the ideal points of countries 1 to 7 on this dimension. SQ is the status quo point and C is the preferred point of the Commission. The Council makes decisions either by unanimity or by qualified majority.

¹ As Tsebelis (1994) notes the qualified majority ration of fives votes out of seven is approximately the same as the actual qualified majority in the Council of Ministers (62 votes out of 87).

Case 1. Unanimity in the Council for agreement. If the agenda setting is left to the Council members themselves, each country will propose their own optimal points. The final decision will be somewhere between SQ and P_u (area A in the figure), because all other proposals are vetoed by country 1. In this configuration the position of the Commission is irrelevant because it does not take part in the Council voting. However, if the Commission can make the first proposal, it will suggest point P_u , where country 1 is indifferent between this point and the status quo. This point is the closest point to the Commission's preferred point that will be accepted by unanimity in the Council.

Case 2. Exogenous agenda setting with qualified majority for agreement and unanimity for amendment. The situation gets more complicated when the agenda setting power of the Commission is considered together with the requirement that the Council can accept this proposal with qualified majority but unanimity is required for accepting modified proposal. The existing literature on the Council voting gives two divergent answers.

2a. Some of the researchers (e.g. Moser 1996; Crombez 1996) maintain that point P_{q1} will be the equilibrium outcome. This argument is based on the idea that country 3 is the pivotal player when making decisions with qualified majority (5 votes out of 7 is needed). The area between SQ and p_{q1} (line B) is preferred to the SQ by country 3. Since the Commission wants the final outcome to be as close as possible to its preferred point C it will propose point P_{q1} to the Council. The coalition of countries 3-7 prefers (actually country 3 is indifferent) this point to the status quo and vote for it. Consequently the proposal is accepted.

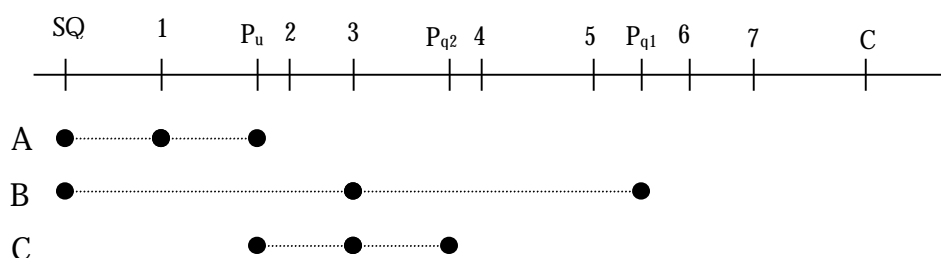


FIGURE 1. MODEL OF DECISION MAKING IN THE COUNCIL.

2b. In contrast to the outcome above some researchers (Tsebelis 1996; Tsebelis & Kreppel 1998) maintain that the final outcome is P_{q2} . Here the idea is that although the qualified majority prefers point P_{q1} to the status quo, the pivotal country 3 prefers the point P_u to P_{q1} . Now, if the country 3 can make a credible threat that it will not vote for point P_{q1} but joins countries 1 and 2 to support point P_u the coalition 3-7 breaks down and the Council unanimously ends up in the point P_u . However, if the Commission as the agenda setter knows this, it will not propose P_{q1} but P_{q2} instead. In P_{q2} the pivotal country 3 is indifferent between this point and the point P_u . Consequently, it votes for this proposal and the point P_{q2} is accepted with qualified majority. In this case at least country 1 votes against the proposal because she prefers status quo to point P_{q2} .

Tsebelis (1996, 840) supports his view (2b) with empirical observations from the behaviour of the Council: “there are frequent arguments in the literature about the preference for unanimous decision making in the Council ... For example, it is well established that few formal votes are taken in the Council.” Tsebelis is quite correct here, the existing literature emphasises the “preference for unanimity” in the EU decision making. However, a small inconsistency in this argumentation is that if point P_{q2} is accepted as the equilibrium outcome in the Council, this point cannot be accepted unanimously. Country 1 will oppose it because status quo is more preferable point to it than P_{q2} . Thus, if “the preference for unanimity” is strong enough, one would expect that point P_u would be accepted, because all members prefer it to status quo.

The question of which of the options (2a or 2b) corresponds better with the reality of the Council decision making is a matter of further research. However, both of the options share a common consequence: *they both lead to a situation in which voting is*

needed for the final decision making. This means that an empirical analysis of the voting records of the Council may help us to understand the process of the decision making. If the models are correct, the empirical data should show that most of the decisions made in the Council are made with qualified majority i.e. that there is at least one country opposing the decision.

3 Empirical observations

In this section I use existing empirical research to analyse how well these results correspond with the above presented formal model of the Council decision making. Although these results cannot be used as direct evidence to refute or confirm the formal model, there seems to be some inconsistency between them and the picture given by the model. I start with a brief analysis of the voting records of the Council. Then I proceed to present more qualitative observations of the Council behaviour. My argument is that these results give a different picture of the decision making than the formal model; a picture that emphasises co-operation and strive to unanimity.

Table 1 shows the percentages of negative votes and abstention in the Council voting during years 1994-96. When decisions in the Council are taken a member country has three options. It can vote for or against a proposal or it can abstain from the voting. The percent of negative votes in Table 1 means the percent of decisions taken by the Council in which one or more member country voted against the proposal. Percent of abstentions means the proportion of decisions in which one or more countries abstained from voting but no negative votes were given. The table shows that both in 1994 and 1995 the proportion of unanimous decisions was the same 75%. However, during this time the proportion of proposals in which negative votes were give rose from 14% to 19%. This may be a result of the fact that the number of players in the Council increased from 12 to 15. Nevertheless, in 1996 the proportion of unanimous decisions grew to 81%.

Table 1 contains all the legislative decisions made by the Council. The model presented earlier concerned only decisions made by the consultation procedure. Table 2 shows how frequently voting occurs in the Council classified by the decision making procedure.

Figures from tables 1 and 2 show that there is a considerable tendency in the Council to try to find a solution that is acceptable to all member states. However, the data set

TABLE 1. NUMBER OF ACTS ADOPTED BY THE COUNCIL AND PERCENTAGE OF VOTES, ABSTENTIONS AND UNANIMOUS DECISIONS (SOURCE: LANE & MATTILA 1998).

Year	Nr of legislative acts	Percent of negative votes	Percent of abstentions	Percent of unanimous decisions
1994	261	14 %	11 %	75 %
1995	406	19 %	6 %	75 %
1996	443	15 %	4 %	81 %

contains all decisions made by the Council and it is not possible to classify them according to which majority requirement (unanimity, qualified majority) they are made. However, if one looks at the data from policy sectors that use qualified majority voting almost exclusively (internal markets, agriculture and common commercial policy) (see König 1996), the pattern does not change. These three policy sectors account nearly for half of all the decision made by the Council. In 1996 the percentage of decisions in which negative votes were given in these sectors were 29% (internal markets), 18% (agriculture) and 0% (common commercial policy).

In the end it is a question of interpretation whether one thinks that these figures are small or large. But certainly they show that roll calls in which negative votes are given are quite rare in the Council. This is not what one would expect from the formal model presented earlier.

Clearly the data shows that there seems to be some kind “preference for unanimity” in the Council decision making. This observation is also supported by the vast body of political science literature that approach the Council decision making from a more qualitative point of view. These analyses stress the importance of bargaining and successive amendments of the Commission proposals until the final decisions are made. This bargaining takes place in the enormous system of preparatory and advisory committees that work under the Commission or under the Council. Furthermore, all decisions, with the exception of agricultural matters, are discussed in COREPER before they enter the final stage of the Council treatment. The matters related to agriculture are prepared in a special body called Special Committee for Agriculture (SCA). Unfortunately, there is no quantitative data available that would show often or how much the Commission’s original proposal is amended in these preparatory bodies. According to

TABLE 2. NEGATIVE VOTES (N) AND ABSTENTIONS (A) BY DECISION MAKING PROCEDURE (SOURCE: LANE & MATTILA 1998).

	1995		1996	
	N	A	N	A
Council decides alone	7.0 %	1.0 %	10.0 %	1.1 %
Co-operation procedure	30.9 %	8.7 %	17.4 %	1.4 %
Co-decision making procedure	28.6 %	21.4 %	29.8 %	13.8 %

some estimates the final proposals accepted by the Council contain at least 80 percent of the original draft (Cini 1996, 147).

Several writers stress the importance of the “culture of compromise” in the preparatory stages of decision making. The matters are discussed extensively and amendments to the original proposals are used frequently to ensure the support of most member countries. Lewis (1998) gives a detailed description of the process that leads to adoption of two legislative proposals in the Council. His case study shows how the bargaining works and how the successive amendments lead to the final draft that can finally be accepted by all Council members. Some authors even underrate the agenda setting powers of the Commission to the extent that they see Commission only as the ‘sixteenth member state’ taking place in the Council meetings. Hayes-Renshaw and Wallace (1997, 188) describe the Commission’s role as follows: “the Commission’s negotiators need to be very alert to the nuances of individual positions in the Council and to find the means and the moment to introduce possible compromises and, if necessary, to soften its own starting position and to modify its text.”

Certainly these accounts of the decision making process that are based on interviews or participant observation show a different picture of the interaction between the Council and the Commission than the one given by the formal models. The Commission is not seen only as a “take it leave it” agenda setter, but more as a negotiator among other players. This is in sharp contrast with, for example, the observation made by Tsebelis and Kreppel (1997, 41) who claim that it is a “fact that Commission proposals are more

easily accepted than modified”. Their observation is based on a model, not empirical data.

4 Conditions for unanimity

In the previous section it was shown that the empirical data shows that a vast majority of decisions made by the Council are made unanimously and not with a qualified majority as the one-dimensional model would predict. In this section I show that the amount of unanimous decision is dependent on the distance between status quo and the preferred positions of the member countries. I use two-dimensional model show why it is possible that some configurations of member countries’ preferences and status quo produce unanimous decisions².

The spatial model is shown in Figure 2. The decision consists of two dimension x and y. For instance, the decisions could concern a new “European” policy of allocating resources to new initiatives aimed at improving employment in the EU area. In this example the dimension x shows the amount of money allocated to this programme. The further to the left player’s preferred point is the more money this actor is willing to put to the programme and vice versa. The y-dimension shows where the decisions concerning which initiatives get money and how much money they get are made. If a player’s preferred point is high on this dimension it means that this player prefers that these decisions are made by the supranational EU institutions. A low point means that a player prefers that the control on these matters is more in the hands of national or local decisions makers. Commission’s preferred point (C) is in the upper right hand corner of the picture, because it is assumed that the Commission prefers that a lot of resources are allocated to the program and that the decision making power rests in the hand of EU level bodies.

It is assumed that the Council consists of five member countries and a qualified majority of four votes are needed for accepting the Commission proposal and unanimity for

² Two-dimensional model have been previously used at least by Tsebelis (1994) and Moser (1996b).

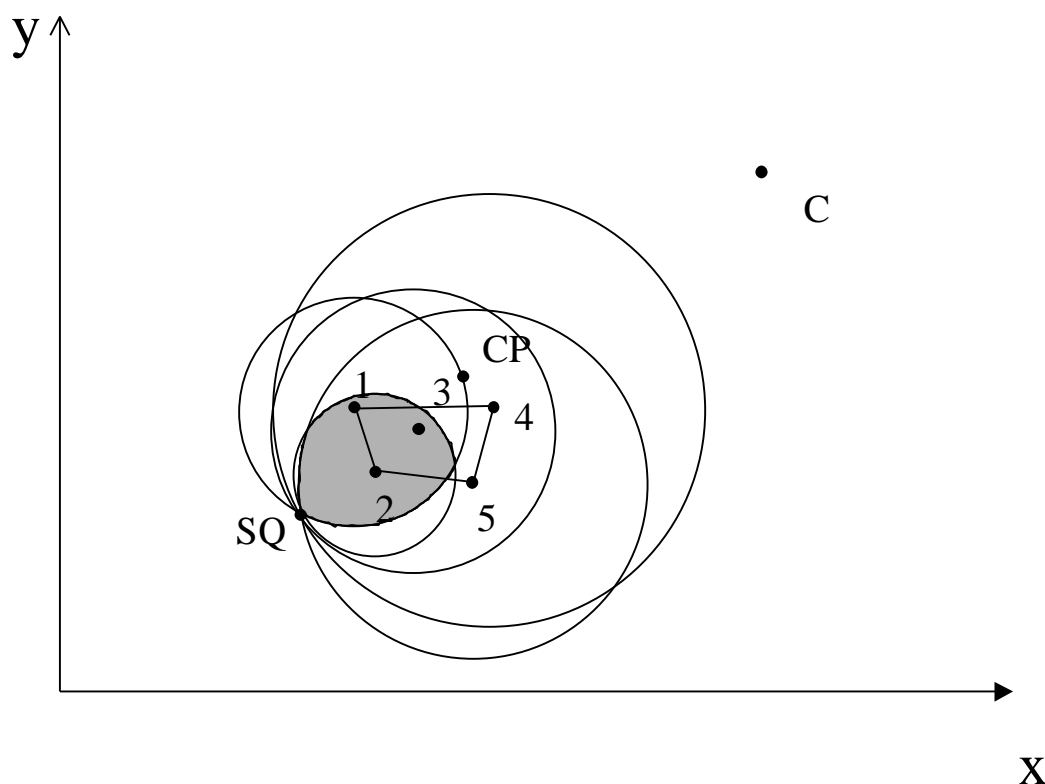


FIGURE 2. TWO-DIMENSIONAL MODEL OF THE COUNCIL DECISION MAKING. OUTCOME IS DECIDED WITH QUALIFIED MAJORITY.

amendment of this proposal³. Member countries' preferred policy positions on the two dimensions are marked with points 1-5. The status quo point is SQ. The lines connecting member countries preferred points indicate the Pareto set of member countries. In this area the welfare of all members cannot be improved simultaneously.

The circles around each member's preferred point in the figure show the area that they prefer to the status quo point. The intersection of all five circles (the grey area) marks the area that all members prefer to status quo point ($U(SQ)$). In Figure 2 this area intersects with the Pareto-area, but only partially. This is the case that resembles best the situation in Figure 1 (one-dimensional model), but with two dimension.

³ The only reason that I do not use 7 members as in Figure 1 is convenience. The two-dimensional representation gets "unreadable" very quickly when the number of player increases. This decision does not change the results substantially.

In the situation depicted in Figure 2 the outcome is always decided by qualified majority. The reason for this is that the Commission makes the proposal that is as close as possible to its preferred point *and* will be accepted by the Council. This point is marked as CP. This point is invulnerable because the Council needs unanimity to amend the proposal. However, they cannot decide unanimously to move the proposal to the grey area, because member 4 will not accept the move (the distance between CP and point 4 is smaller than the distance between point 4 and the grey area). Thus, the Council will end up accepting the Commission proposal (CP) by qualified majority. The member 2 will vote against this proposal.

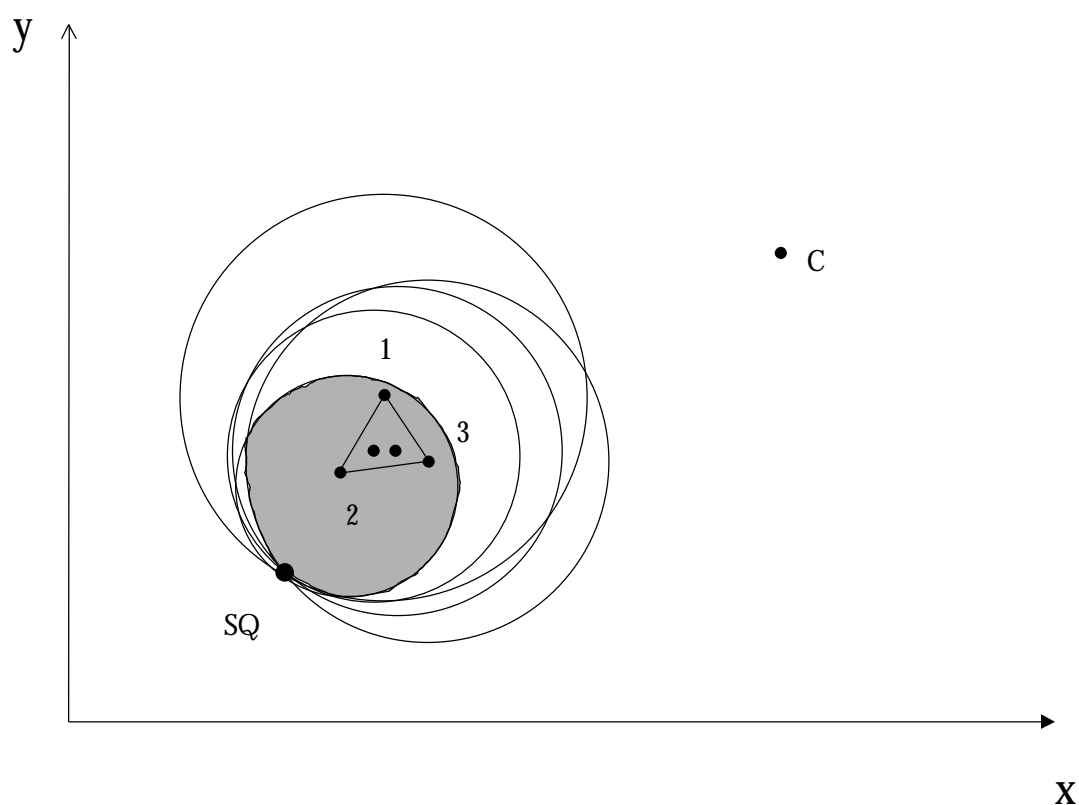


FIGURE 3. THE OUTCOME IS DECIDED UNANIMOUSLY.

Nevertheless, it is not always the case that qualified majority voting is needed. This is shown in the Figure 3. In this situation the Pareto-set of the Council members is completely inside the grey area ($U(SQ)$). If this is the case the outcome is always decided unanimously. If the Commission chooses to make a proposal that is outside the grey area, the Council members can always unanimously amend the proposal to some point in their Pareto-set. Now, the strategy for the Commission is to propose point 3. This point

is the point in $U(SQ)$ that is closest to the Commission's own point. The Council can not amend this point because member 3 vetoes all the attempts to move away from its preferred point. Consequently, the Council accepts the Commission proposal unanimously.

It is not a necessary condition for unanimity that the Pareto-set is inside the (grey) area that is unanimously preferred by all Council members to the status quo point. In Figure 4 preferred points of the Council members 1 and 4 are outside the grey area. However, these points are further away from to the Commission's preferred point than the point 3. In this situation the Commission will propose point 3 which is accepted unanimously. Also members 1 and 4 will accept this proposal because they prefer this point to the status quo situation (the dotted circles show that this point is closer to members 1 and 4 than the status quo point).

An additional (but not necessarily unlikely) configuration of preferences is one in which the status quo is inside the Pareto-set. This situation is not pictured here but, it is easy to show that in this case unanimous decisions are impossible. By definition every move in the Pareto-set area is resisted by at least one Council member.

A further remark of the Figures 3 and 4 is that if more countries are added to these Figures and if their preferred points are inside the Pareto-set, the outcome does not

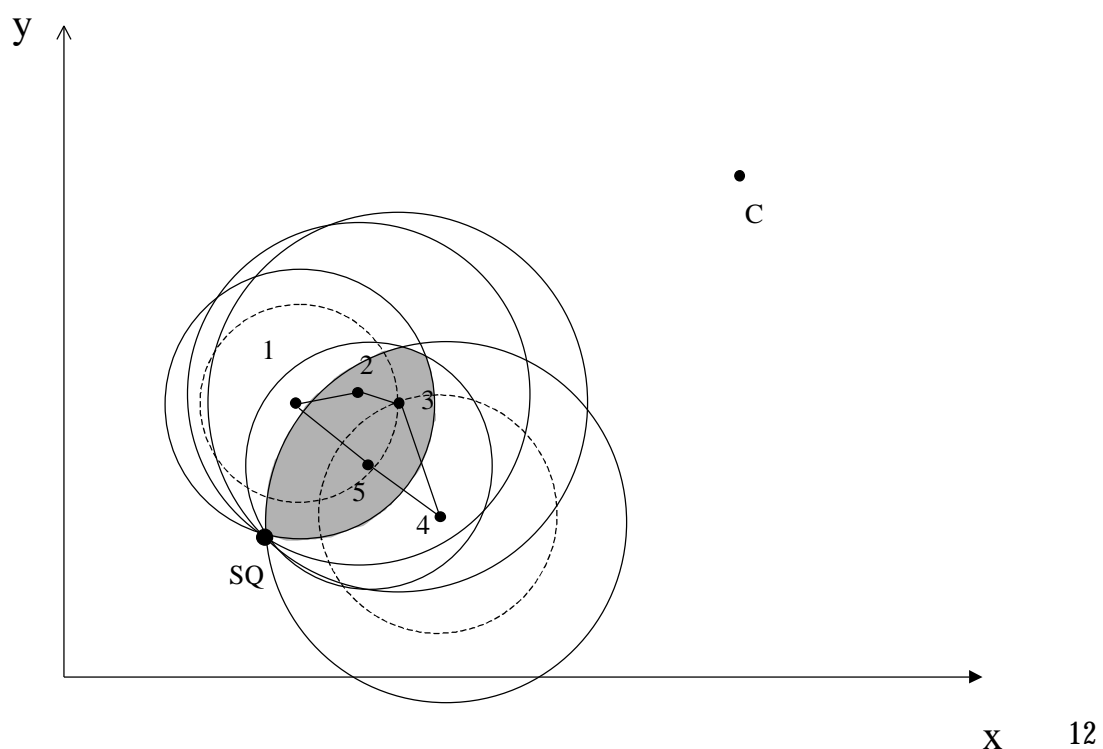


FIGURE 4. THE OUTCOME IS DECIDED UNANIMOUSLY.

change. This can be an explanation to the fact that the proportion of unanimous decisions did not decrease when three new member countries entered the Union in 1995. If their policy positions are located inside the Pareto-set of the former member countries, this is what the model predicts.

As Figures 3 and 4 show it is quite possible that the Council ends up deciding matter unanimously also when the acceptance of proposals requires only qualified majority. In order to this kind of situation to arise, the status quo point has to be far away from the member countries' preferred points and the distance among the members countries are not large. To summarise the results:

Unanimous decision making in the Council is more likely when

- a. the distance between status quo and the member country that is closest to status quo increases *and*
- b. the differences among the Council members decrease *and*
- c. the status quo point is not included in the Pareto-set of the Council.

These results may be one factor contributing to the empirical fact that unanimity prevails in the actual Council decision making. But the important question is how likely is it that the above mentioned conditions are met in the "real world". Perhaps, the most likely situation in which the conditions are met is when a new "policy sector" enters the arena of supranational or EU-level policy-making. If member countries realise that there are some mutual benefits to be gained from "europeanisation" of some policy areas, a situation depicted in Figures 3 and 4 can occur. However, once the policy sector is submitted to EU decision making, the status quo point probably moves closer to the preference points of the member countries. Consequently, one would expect that in the areas in which integration is deep, more majority voting is required. A roll call analysis by Lane and Mattila (1998) shows that agriculture, internal markets and transportation policy are the policy sectors in which voting occurs most frequently. Agriculture and internal markets are the "most integrated" areas in the EU, and thus the this observation is in line with the idea that when the integration proceeds decision making by unanimity gets more difficult.

5 Other possibilities?

The formal models of the Council decision making presented in the political science literature (or in this paper) consider only one decision at a time. This “one shot” account gives a very limited picture of behaviour of the Council. In fact the Council makes several hundred legislative decisions in a year. This has not been clearly taken into account when modelling the Council decision making. Is it possible to model the behaviour differently when considering two or more decisions happening simultaneously? This possibility has not gained much attention in the literature. One exception is Kirman and Widgrén (1995) who analyse the consequences of linking or “packaging” decisions together. One of their results is that the more heterogeneous member states are, the more they can gain by linking decisions.

One way to conceptualise the process of several decisions occurring simultaneously is to model the process as *vote trading* or *‘log-rolling’*. In vote trading the players do not (necessarily) vote sincerely i.e. according to their true preferences. Insincere voting can be defined as voting for one’s less-preferred, rather than one’s more preferred, position on a roll call when there is an incentive to do so (Brams 1975, 133). Incentives for vote trading arise from the fact that the intensities of preferences (i.e. *salience*) may vary between players. For example, in Figure 2 it is the voter 4 who can veto all the attempts to amend the Commission proposal (CP). However, if this particular decision is not very important (salient) to voter 4, other Council members may have an incentive to “buy” 4’s support for accepting an amended proposal that is in the grey area. Of course, voter 4 will oblige only if there is some other decision in which its opinion gets support from other decision makers in return.

But how likely is voting trading to happen in “real world” and especially in the Council decision making? Aside from the theoretical considerations there are some “real-world” conditions that restrict the likelihood of vote trading actually taking place (see Brams 1975, 148-151). These are incomplete 1) incomplete information and lack of communication, 2) lack of binding agreements, 3) party discipline, 4) similarity of salience rankings, and 5) existence of stable majorities. Next I show briefly why these obstacles of vote trading do not play major part in the Council decision making.

1. *Information and communication.* In order for vote trading to be successful players have to know each other's policy positions and their saliency rankings. In a national legislature this task may be impossible because there can be hundreds of MPs with varying preferences. However, the situation in the Council decision making is different. There are only 15 (or 16 if you count the Commission) players and the communication between them is easy. There are hundreds of preparatory committees both under Commission and under the Council in which expert from members countries meet and discuss proposals. After the initial handling in preparatory committees the proposals move to COREPER in which representatives from member countries discuss matters (and in a vast majority of cases they also make *de facto* decisions). The members of COREPER are permanent officials who live in Brussels and many of them have known each other for years⁴. The limited number of "players" and extensive use of various preparatory bodies ensure that member countries are well aware of each other's policy preferences and how important particular decisions are for them.

2. *Binding agreements.* If the vote trading agreements made by the member countries are not binding, the result may be infinite cycles of trading and position changing. However, in a setting described in the paragraph above (same persons who know each other making agreements) acting deceitfully may lead to penalties from other participants that in the long run may outweigh any gains received from breaking agreements. Many qualitative accounts of the working habits of the COREPER emphasise the importance of the mutual trust that has evolved between persons taking part in these meetings (e.g. Hayes-Renshaw & Wallace 1997, 82; Lewis 1998).

3. *Party discipline.* By party discipline Brams (1975, 149-150) means a situation in which the vote trading is limited to some subset of the voting body (e.g. a party) and trades across party lines are forbidden. As is well known there is no government/opposition formation in the EU which might limit the vote trading to the members of the governing coalition.

4. *Differences in salience.* Vote trading cannot be useful to the players if their rank orders of the decisions are not different. However, most of the decisions made in the EU are

⁴ Both COREPER I and II meet on at least on a weekly basis, frequently twice a week and meetings can continue even to early hours of the following day (Hayes-Renshaw & Wallace 1997, 79)

not probably of the same importance to all member countries. For example, decisions concerning the allocation of fishing quotas on the Atlantic Ocean are of little practical importance to Finland whereas they may be crucially important to some other countries. The larger the differences in salience are, the more there is to gain from vote trading from the point of a view of a single member country.

5. *Unstable coalitions.* Vote trading is inhibited if there is a subset of members of the voting body whose sincere policy positions are those of the majority on all roll calls. In the Council decision making this would mean that there is a stable (qualified) majority coalition of member countries who share preferences on most of the decisions. This seems highly unlikely considering the wide scope of EU legislation. One observer (Dinan 1994, 253) describes the situation in the Council as follows: “Such is the nature of Community Affairs, however, that coalitions change dramatically according to the item under discussion.” Further evidence for the lack of any major dividing policy dimension among member countries is given by Lane and Mattila (1998). In their study of the Council voting records they did not find any major divisive dimension that could anticipate formation of any stable coalition of countries.

Of course, the lack of above mentioned obstacles of vote trading does not mean that vote trading takes place in the Council decision making. However, it could be explanation to phenomena of “over”used unanimous decisions making. The strength of vote trading models is that they consider several decisions taking place simultaneously and can consequently be more realistic than model analysing only single decisions. Furthermore, there are some empirical results that support the idea that modelling EU decision making as a process involving simultaneous decisions gives better predictions than model that concentrate only on one decision at a time (Schnorpfeil 1996; König 1997).

6 Conclusions

In this paper I have reviewed the existing spatial models of the decision making in the EU Council of Ministers and contrasted these models with empirical results given by other approaches. The one-dimensional model of the Council decision making predicts

that a qualified majority makes most of the decisions in the Council. However, the analysis of the roll call data shows that unanimity is still the prevailing way of deciding matters. Using a two-dimensional spatial model it was shown that in under some conditions the Council ends up deciding matters unanimously, although only a qualified majority is needed for decision. This may constitute a partial solution to the “phenomena of unanimity”. The two-dimensional model shows that unanimous decisions are likely when the status quo point is far away from the preferred points of the Council members. This situation is likely to occur in policy areas where the integration is not yet deep. When the integration deepens, more qualified majority decisions are expected.

It is doubtful whether the above mentioned conditions alone are likely to explain the large proportion of unanimous decisions. The decision making model could be more accurate if the process is seen as a situation in which several matters are decided simultaneously. One example of such a model is vote trading or ‘log rolling’. It was shown that the real world conditions that hinder vote trading e.g. in national parliaments are not present in the EU decision making. Thus, a vote trading model could be an explanation to the “problem” of unanimous decisions.

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