

Leadership in the European Convention

Mareike Kleine

ABSTRACT Did the Chairman of the European Convention, Valéry Giscard d'Estaing (VGE), shape this body's deliberation toward an outcome that would not have occurred otherwise? I contend that VGE was able to influence the *form* of the Convention's outcome and to some extent its content on issues of minor importance, but not its very *substance* on institutional matters. Drawing on functional approaches to leadership, I argue that the Convention's rules of procedure constituted an original negotiation setting that allowed the Chairman to wield influence through setting the agenda. But the more the Convention approached institutional questions, the less he was able to generate the preconditions for his leadership. The Convention ultimately turned into an IGC-like, unanimous negotiation setting without any room for the Chairman's influence.

KEY WORDS Agenda-setting; Constitutional Treaty; European Convention; Giscard d'Estaing; leadership.

1. INTRODUCTION

Did the Chairman of the European Convention, Valéry Giscard D'Estaing (VGE), shape this body's deliberation toward an outcome that would not have occurred otherwise?¹ Although its fate is still uncertain, the negotiation and the final substance of the Constitutional Treaty present an intriguing empirical puzzle. Few would disagree with the assertion that the European Convention was a surprise. It agreed on a fully-fledged Constitutional Treaty, which previous Intergovernmental Conferences (IGCs) had been unable to ascertain in form or substance.² The Constitutional Treaty was meant to legally succeed the European Union's (EU's) entire patchwork primary law, and it altered many of the Nice provisions on institutions even before this recently signed treaty had come into force. Against this background it appears questionable that this particular outcome was expected, let alone desired by all member states, even though they were formally represented in the Convention. At each stage of the deliberation VGE played a sometimes admired, sometimes unwelcomed,

prominent role. From the outset he made no secret of the fact that he was deeply committed to modifying the EU's current institutional architecture. Thus, an obvious question to ask is whether VGE shaped the Convention's deliberation according to his preferences and toward an outcome that would not have otherwise occurred.

I contend that VGE was indeed able to influence the *form* of the Convention's outcome and to some extent the substance of issues of minor importance. He guided the Convention's initially vague objective toward drafting a fully-fledged Constitutional Treaty that would recast the entire body of EU primary law, and ultimately set the agenda for, and thus significantly constrained the room for manoeuvre of, the ensuing IGC. But he was not able to achieve what he had originally aimed for: to influence the Constitution's *substance* on institutional matters. These provisions are better conceived of as a pure compromise between large and small, and federalist and intergovernmental member states.

In order to substantiate my claim I draw on functional approaches to leadership (Tallberg 2006)³ and legislative agenda-setting in particular. I argue that VGE's influence was contingent on the demand for his leadership, his command of procedural resources, and the underlying decision rule. The Convention's rules of procedure endowed VGE with several procedural resources and constituted an original negotiation setting with a high demand for leadership. Most importantly, the Convention's decision-making formula – an elusive 'broad consensus' – established a non-unanimous negotiation setting that transformed VGE's initially innocuous procedural resources into significant agenda-setting power that he would subsequently use to shape some of the Convention's deliberations. But the more the Convention approached institutional questions, where governmental preferences were intense, stable and well known, the less he was able to generate the preconditions for his leadership. The Convention ultimately turned into an IGC-like, unanimous negotiation setting without any room for the Chairman's influence.

Studies on leadership involve serious methodological challenges. Although we can analytically differentiate between types of negotiation problems, they are often indistinguishable in reality. The demand for leadership is therefore hardly generalizable and highly endogenous to the peculiarities of the situation. What is more, leaders will anticipate the realms of possibility, and change their strategies accordingly. A simple coincidence of an outcome with the leader's statements is therefore not sufficient to *demonstrate* her influence. A paucity of reliable data on actors' real preferences amplifies this problem and renders a demonstration of a leader's ability to impose her preferences on an outcome very difficult. Cognizant of such methodological problems, I seek to substantiate my argument by focusing on formal and informal rules circumscribing the preconditions for VGE's influence. At each stage I discuss the demand for and the supply of leadership, and further engage in counterfactual reasoning about the probable course of the negotiation in the absence of any intervention on the part of the Chairman.⁴

The article proceeds as follows: the next section outlines in greater detail the theoretical argument about negotiation problems, how chairpersons deal with these hindrances to mutually beneficial outcomes, and the ways in which they are able to wield influence. The empirical section examines different phases before and within the Convention, which are distinguished by various, previously formulated tasks for the Convention. I conclude with a brief summary and by discussing my findings in light of the current constitutional disarray.

2. LEADERSHIP AND AGENDA-SETTING

Approaches to leadership deal with the role that individual and institutional actors play in the attainment of mutually beneficial outcomes during processes of collective choice. The starting point of these approaches is the insight that, despite the existence of a zone of possible agreement, negotiating actors nonetheless face several problems that may hinder them in achieving the best possible outcome.

2.1 The demand for leadership

Those problems may lie in the asymmetrical distribution of information, high transaction costs, and multiple equilibria (Tallberg 2006: 19–29), and they create a demand for an actor who can help to overcome such obstacles.⁵ First, negotiations are not simply about attaining joint gains, but, more importantly, almost always touch on questions of the distribution of benefits (Krasner 1991: 362). Negotiating actors therefore face a dilemma (Lax and Sebenius 1986: ch. 6): they have incentives to reveal their true preferences in order to help attain the best possible common outcome; at the same time, however, they have incentives to distort this information in order to obtain a larger share of the ‘common pie’. And since they fear that other actors are behaving likewise, they may end up caught in situations with *asymmetrically distributed information* that lead to suboptimal outcomes.⁶ For many political issues, however, information on preferences is not scarce; rather, the cognitive and administrative resources needed to process information are scarce. Second, and related, negotiation analysts therefore stress the *transaction costs* associated with negotiations (Young 1991: 283; Winham 1977; Zartman 1994). For some actors it is not only difficult but, first and foremost, costly to acquire and process information on the state of affairs, whereas others, notably those backed by efficient administrative apparatus, are relatively better able to maintain a complete picture. In unanimous settings, a rise in these transaction costs may ultimately slow down the talks, whereas in non-unanimous settings it puts some negotiating actors at a permanent disadvantage. Third, situations may arise where negotiating actors are simply unable to collectively agree on the *agenda* of the discussion. In non-unanimous settings and on issues with multiple dimensions, negotiating actors’ preferences may not unequivocally point to one majoritarian outcome. In other words, collectively intransitive preferences may lead to a situation in which majorities cannot be sustained as issues

are infinitely put back on the agenda.⁷ Under unanimity, and when distributive consequences are rather low, the lack of a clear agenda prevents parties from successfully co-ordinating their behaviour toward one of many possible equilibria.⁸

2.2 The supply of leadership

In short, informational asymmetries, transaction costs associated with bargaining, and unstable agendas may distort negotiations and lead to suboptimal outcomes. All together these factors create the demand for leadership. In anticipation of these obstacles, negotiating actors can choose to delegate procedural resources to an agent (here, a formal leader) that is specifically designed to alleviate these negotiation problems. Privileged access to private information, for instance, allows a leader to level *informational asymmetries*. Further, *transaction costs* are reduced by equipping a chairperson with an efficient administrative apparatus. Negotiating actors thereby take advantage of economies of scale through the centralized distribution of negotiation-relevant information. Also, by setting deadlines the chairperson may manipulate the concentration of transaction costs, and thus put some negotiating actors at a disadvantage. Finally, the delegation of a right of proposal stabilizes the agenda and enables negotiating actors to take a decision in the first place (e.g. Shepsle 1979: 35). In short, privileged access to private information, agenda-setting power and further procedural resources that minimize transaction costs associated with bargaining alleviate negotiation problems to the common advantage. At the same time, however, the occupant of the position of a formal leader gains the opportunity to exploit these resources and to steer the outcome toward her preferred ideal point (Tallberg 2006: 31–3).

2.3 The decision rule

The delegation of procedural resources to a formal leader, however, is not yet a *carte blanche* for influence, but further contingent on institutional checks and balances and the decision rule.⁹ As argued above, in *unanimous* settings, where unfavourable outcomes may be blocked at any time, the ability to impose own preferences on an outcome primarily depends on privileged access to private information and ideas. Whenever chairpersons lack such a privileged access their influence can be regarded as largely redundant as they have to anticipate an outcome upon which all negotiating actors can agree (Moravcsik 1999a: 272). In *non-unanimous* settings, however, a chairperson with exclusive control over the agenda may disregard unfavourable positions and shape an outcome in her favour by tailoring a proposal in a way that maximizes her utility within the majoritarian win-set (McKelvey 1975: 472).¹⁰

To sum up, the influence of a chairperson is contingent on, first, the demand for leadership due to unstable agendas, transaction costs, and informational asymmetries; second, the command over procedural resources, especially

agenda-setting power and privileged access to information and ideas; and, third, the underlying decision rule. Thus, I hypothesize that a leader's influence is highest when there is a strong demand for leadership, when the chairperson controls the agenda and has privileged access to information and ideas, and when deliberations take place in a non-unanimous setting. In that case we should observe a coincidence of outcomes with the leader's preferences, despite complaints of a significant number of negotiating actors. *Ceteris paribus*, her influence is negligible when the demand for leadership is low, the chairperson is endowed with little procedural resources, and the decision rule approaches unanimity. In that case, we should be able to observe changes in the leader's position in response to credible threats of veto as she is now forced to anticipate the zone of agreement.

3. LEADERSHIP IN THE EUROPEAN CONVENTION?

3.1 The Laeken Declaration as an ambiguous birth certificate

After the disappointing and hostile negotiation of the Nice Treaty in December 2000, the Heads of State and Government agreed that a different approach was needed. The UK government slowly came to accept the idea of having a Convention prepare the next IGC on condition that this body would only come up with a series of options for the national leaders to consider (The Economist 14 July 2001). The result is a pragmatic compromise between sceptics and proponents of this new method. The European Council's Laeken Declaration of December 2001 (European Council 2001) reveals the member states' indetermination about the actual purpose and concrete organization of the deliberations (Magnetic and Nicolaïdis 2004: 388).

The demand for leadership

The Convention's mandate consisted of 60 broadly formulated questions that contained something for everyone. In fact, almost every issue with the remotest link to the text could become a subject of the discussions. Also, the Convention's very objective was left vague. The Laeken Declaration stated that the Conventioneers 'will consider the various issues. [The Convention] will draw up a final document which may comprise either different options, indicating the degree of support which they received, or recommendations if consensus is achieved' (European Council 2001). However, this vagueness could not be considered as *carte blanche*, as the Laeken Declaration made clear nonetheless that whatever the Convention could come up with, it would only be 'a starting point for discussions in the Intergovernmental Conference, which will take the ultimate decision' (European Council 2001). In other words, the Conventioneers were left in the dark about the ultimate form that their collaboration would take.

In contrast to IGCs the Convention was supposed to meet in public, and its documents were fully accessible on the internet. While the full transparency of the deliberation guaranteed an abundance of information and ideas, the costs

associated with processing the information would be considerable for most of the Conventioneers. Composed of representatives of the member states' governments, the Commission, the European Parliament (EP), and the national parliaments, the Convention comprised 105 Conventioneers (and their alternates) – a group that was highly heterogeneous, both in preferences and expertise. Whereas the diverse group of government representatives could rely on experienced administrative support from permanent representations and national ministries, national parliamentarians were less well equipped and less acquainted with European decision-making. Representatives of the EP, in contrast, had more experience and resources. Finally, the European Commission, although only represented by two Commissioners and their two alternates, set up a Convention taskforce that would follow the deliberations closely. In short, multiple possible outcomes were conceivable for the Convention. The abundance of information and differences in expertise among the Conventioneers meant that transaction costs were considerable, and furthermore concentrated differently.

The supply of leadership

It seems sensible that this large and diverse body would need to be assisted in its work. Informed by the experience of the Charter Convention, the Heads of State and Government decided to set up a Praesidium. As a sample of the Convention itself, it was supposed to reflect the divisions of the whole body. In other words, the Praesidium, too, would encounter negotiation problems and be in need of some sort of leadership. Therefore, the appointment of VGE as the Convention Chairman caused a heated debate at the Laeken summit. Since he had already voted against the Nice Treaty in the Assemblée Nationale, it was evident from the outset that Giscard's main concern was the revision of the EU's institutional architecture. Uninterested in concrete policies, the former French President's institutional thoughts were centred on a revised executive, inspired by French semi-presidentialism.¹¹ In his eyes, the European Council he invented in the 1970s should come first, and the whole institutional setting was to be reorganized around this keystone. This meant that he favoured a permanent presidency of the Council and a smaller and less pivotal Commission, as well as an EU Minister for Foreign Affairs and a more proportional voting system in the Council. On these points he was clearly biased in favour of the Big Three's (France, Germany, and Great Britain) interests. At the small member states' urging he was therefore assigned two vice-presidents: the Italian Giuliano Amato and the Belgian Jean-Luc Dehaene (European Report 19 December 2001). These three Chairmen constituted the triumvirate of the Convention.

However, the heterogeneous Praesidium (the Declaration does not distinguish between the Praesidium, the triumvirate, and the Chairman) was ill-equipped to supply the demand for leadership. While the Declaration places a Secretariat at the Praesidium's disposal that would allow the Conventioneers to take advantage of economies of scale through the centralized provision of negotiation-relevant information, the Declaration assigns only a few procedural

resources to the Praesidium. Furthermore, its tasks and working methods remain as vague as the Convention's overall objectives: 'The Chairman will pave the way for the opening of the Convention's proceedings by drawing conclusions from the public debate. The Praesidium will serve to lend impetus and will provide the Convention with an initial working basis' (European Council 2001). In short, significant and differently concentrated transaction costs as well as a vague mandate that made multiple outcomes conceivable created a demand for an actor to help Conventioneers and the Praesidium to overcome these obstacles. But the Laeken Declaration remained silent about more concrete procedural resources and the decision rule. Consequently, the very first days of the Convention in February and March 2002 were dominated by an intense debate over the rules of procedure.

3.2 The rules of procedure

A first draft of the rules of procedure (CONV 3/02) immediately aroused concerns about the supposedly dominant role of Chairmen and Praesidium in relation to the body.¹² The draft contained a provision for the Chairman to report on the progress of the proceedings at each meeting of the European Council, and gave him the right to structure the agenda of a plenary session. Following a Chairman's proposal, the Praesidium would further determine the type and mandate of working groups, its chair and working procedures.

The demand for leadership

In particular the parliamentarians in the Convention complained about this proposal and demanded the creation of a much more decentralized parliament-like body with permanent rapporteurs and roll-calls (Hänsch 2003: 332). In his inaugural speech on 28 February 2002 VGE reacted to those concerns, and set forth his view of the Convention's particular character:

We are neither an Intergovernmental Conference nor a Parliament. We are a Convention. . . . What does that mean? A Convention is a group of men and women meeting for the sole purpose of preparing a joint proposal. . . . Some of you have expressed concerns about the role of the Presidium and the Plenary, fearing that the bulk of the work will be carried out by the Presidium. To you I would say that, for me, the Convention is the Convention! It is normal for the proceedings to be prepared and organized by a Presidium, as is the case for any assembly or organization.

(CONV 04/02)

The approach, so the argument went, would contribute to the elaboration of a joint proposal and therefore justified a more centralized organization of the Convention. For such an original method to be successful, an early rigidification along the components had to be avoided. As VGE put it:

The members of the four components of our Convention must not regard themselves simply as spokespersons for those who appointed them . . . This Convention cannot succeed if it is only a place for expressing divergent opinions. It needs to become the melting-pot in which, month by month, a common approach is worked out.

(CONV 04/02)

This approach, he inveigled the Conventioneers, would ‘open the way towards a Constitution for Europe’, and the Convention’s purpose was nothing less than ‘writing a new chapter in the history of Europe’ (CONV 04/02). In order to set the stage for this ‘common approach’, special emphasis was placed on individual contributions, and the encouragement of cross-factional links. By seating the Conventioneers in alphabetical order instead of dividing them into factions, multiple institutional identities of some Conventioneers (a Member of the European Parliament (MEP), for instance, represented the EP, her group, and her country) were further bolstered. At the same time, however, and in contrast to a parliament-like setting, the prevention of cleavages also increased the complexity and, thus, the demand for a leader to lower transaction costs associated with maintaining a complete picture.

The supply of leadership

However, before this original body could start work on the joint proposal, it was supposed to go through a lengthy period of attentive listening (*Phase d’Écoute*), which was expected to contribute to a thorough examination of all visions of the purpose of the EU. Only then would the Laeken questions and the various prescriptions of European integration be considered in a study stage (*Phase d’Étude*), before the final text was drafted in the proposal stage (*Phase de Réflexion*). The long listening stage levelled initial asymmetries in expertise and costs associated with being *au courant*. Unsurprisingly, it was criticized by those in advantageous starting positions (by MEPs in particular) (The Independent 28 February 2002), but welcomed by many national parliamentarians who sought to gain time to familiarize themselves with European affairs and the preferences of other Conventioneers (Gisela Stuart 27 September 2002).

The rules of procedure that the Convention finally agreed on in these first days endowed the triumvirate and the Chairman in particular with several procedural resources: summaries of the meetings were to be drawn up by the well-versed and highly efficient Secretariat, which was directly assigned to VGE (CONV 03/02: Article 11), and which worked closely with his two vice-presidents (Deloche-Gaudez 2004: 57; see also Tsebelis 2005: 15–18). Furthermore, the triumvirate was responsible for ensuring the proper conduct of the plenary debates by ‘taking account of views expressed by the Convention’ (CONV 03/02: Article 6). Following a Chairman’s proposal, the Praesidium would also determine the type and mandate of working groups, its chair and working procedures. In short, through the rules of procedure the Convention delegated several procedural resources to the Chairman and the triumvirate.

These resources were initially designed to structure and smooth the conduct of the deliberations, and they set the Chairman and his vice-presidents apart from the Praesidium and the rest of the Convention.

The decision rule

At first glance, these procedural resources do not appear particularly noteworthy. Their significance, however, was further contingent on the underlying decision rule. VGE rejected demands for majority voting on the part of some MEPs from the outset, since a like provision would have resulted in systematic calls for votes and therefore jeopardized a consensual joint proposal (Süddeutsche Zeitung 28 February 2002; European Report 16 March 2002). Nonetheless, the decision rule was not going to be unanimity either, as VGE emphasized:

The Laeken Declaration leaves the Convention free to choose between submitting options or making a single recommendation. . . . there is no doubt that, in the eyes of the public, our recommendation would carry considerable weight and authority if we could manage to achieve *broad consensus* on a single proposal which we could all present.

(CONV 04/02; emphasis added)

Crucially, the question of how such a 'broad consensus' would be assessed was left open. Whereas consensus decision-making is the rule rather than the exception in European decision-making, it usually means the absence of dissent. But the oxymoronic term '*broad consensus*' implied that one or more dissenting voices would not be enough to put a stop to the whole process.¹³ In the words of one Praesidium member, a consensus was simply the 'absence of significant grousing' (Klaus Hänsch 22 November 2002; author's translation). But the burden of proof that an objection was indeed to be considered significant was shifted to the Conventioneers themselves. Thus, the decision rule turned the Convention into a quasi non-unanimous negotiation setting with two important consequences. First, negotiating actors, uncertain about whether or not they were part of the broad consensus, were enticed to mitigate their proposals and to form coalitions.¹⁴ Second, and more importantly, this decision rule turned the Chairman's right to summarize the state of the debate into significant agenda-setting power that set him further apart from the Praesidium and the rest of the Convention. In a non-unanimous setting this right permits the person who holds the pen – in that case the Chairman rather than the Praesidium – to define the 'broad consensus' and the 'significance of grousing' in the first place (CONV 03/02: Article 12). Nonetheless, the member states' veto could never be fully abandoned. Owing to the 'shadow of the IGC', that is, the member states' ability to change the Convention's outcome in the following IGC, governmental representatives' agreement was more significant than others, and their threat to veto the whole endeavour was credible.

To summarize, by appealing to the Conventioneers' historical responsibility, and playing on the Conventioneers' desire to become a part of history, VGE guided the Convention toward the elaboration of a single proposal for a Constitutional Treaty. At the same time the special emphasis placed on the Conventioneers' individual contributions meant that the complexities of the talks, and thus the demand for leadership, would significantly increase. This aspect implied a more central role for Chairmen and Praesidium, and thus justified the controversial rules of procedure, whose first draft was amended only circumstantially (CONV 9/02). Potential iniquities that could arise with increased transaction costs were initially alleviated through the decision for a long listening stage that would provide the Conventioneers with the opportunity to become acquainted with the debate. Most importantly, the decision to aim at a 'broad consensus' created a non-unanimous negotiation setting that turned the Chairman's initially innocuous procedural resources into significant agenda-setting power that could potentially be used to realize his own preferences *vis-à-vis* the Conventioneers.

What would have been the outcome in the absence of VGE's efforts? Against the background of the indecision at the Laeken summit, it is noteworthy that the Convention agreed so quickly on presenting a 'Constitution' that would largely limit the room for manoeuvre of the ensuing IGC. However, the UK government was quick to downplay the term 'Constitutional Treaty' as a mere label.¹⁵ VGE's actions can be regarded as a co-ordination effort toward a focal point with minor distributional consequences. Although he had guided the Conventioneers to agree on the name of the outcome, its structure and very substance were still up for discussion.

3.3 Listening and studying

The rules of procedure were still controversial, but the Convention agreed to handle them flexibly, and the Chairmen were obliged to take 'into account the views expressed by members of the Convention' and to arrange 'as far as possible that the diversity of the Convention's views is reflected in the debates' (CONV 09/02).

The demand for leadership

The listening stage was literally a quiet phase that Conventioneers primarily used to learn about each others' views and to outline their own positions. In the end, it revealed the need for discussion on countless issues, among them demands to reconfigure the EU's constitutional architecture, and therefore to broach fundamental institutional questions. But the Conventioneers differed in their views about those topics' relative importance so the exact emphasis and order had to be arranged by a leader setting the agenda. This was accomplished through establishing a number of specialized working groups (WGs), whose meetings and preparatory documents were to be arranged by the Convention Secretariat (Deloche-Gaudez 2004: 62). Since some WGs were going to

meet at the same time, some components struggled to remain up to date. Being represented by two members and two alternates only, and additionally chairing some WGs, the Commission probably suffered most in this stage (Interview with a member of the Commission 2 May 2005).

The supply of leadership

The triumvirate, in agreement with the Praesidium, decided to set the Convention's agenda by proposing several 'waves' of WGs in June 2002. According to the triumvirate's proposal, the first wave primarily addressed legal topics, while concrete policies were left for discussion in a second wave. At the request of a group of socialist members, a final WG on 'Social Europe' was established in a third wave. Despite criticism from many Conventioneers and within the Praesidium, controversial issues, and institutional issues in particular, were not dealt with in a WG, but tabled instead. In that way the triumvirate again sought to avoid an early rigidification along the components that would jeopardize an agreement. In turn, questions that promised to be less controversial were brought forward. The first wave thus comprised seemingly technical issues that nonetheless entailed important preliminary decisions of a constitutional nature.

Ultimately, the sequence of items on the Convention's agenda turned out to be pivotal for the Convention's nature and ambition. The question of the EU's legal personality offers an excellent and important illustration. The WG was given the mandate to discuss the internal and external effects of either the attribution of legal personality to the EU solely alongside that of the European Communities (ECs), or the merger of the legal entities of the ECs and the EU into a single legal personality, respectively (CONV 73/02). This question had already been under consideration in previous IGCs, but various objections had always hindered an early agreement. First, it was argued that such a merger would have unintended consequences for the delineation of competences within the EU. Second, such an endeavour implied a treaty of a fundamentally constitutional nature as a merger of legal personalities logically implicated merging, restructuring and simplifying the entire European law. Third, and related, for the 'merged treaty' to become valid, it would in its entirety need to be put to ratification again (CONV 250/02).¹⁶ These objections had in the past prevented an early decision on the exact form of legal personality. But a preliminary decision was consequential for the overall objective of the Convention's proceedings and the exact format of its outcome – whether it would come up with a mere 'chapeau' treaty that simply amended the existing treaties, on the one hand, or one that merged and recast every single piece of the entire primary law into one fully-fledged constitutional treaty that legally succeeded the existing treaties, on the other hand.

The WG was chaired by the Italian politician and Vice-Chairman Giuliano Amato, a constitutional lawyer with brilliant experience in European constitutional law. Whereas Amato and VGE clearly favoured merging the

entities and treaties, the Secretary-General, Sir John Kerr, and parts of the Praesidium were rather sceptical and favoured a 'chapeau' treaty (Norman 2005: 67). The Conventioneers became ever more aware of the different options they faced, and voiced their demand for leadership:

Mr President, a decision from the Praesidium upon the form of the Treaty that we are going to draft would be a great help to us. . . . The sooner the Praesidium steers us towards one of those options, the sooner we would feel much less frustrated than some of us feel at present.

(Andrew Duff 24 May 2002)

On 1 October the WG presented its final report: it recommended a single legal personality, and suggested merging the existing treaties into an all-encompassing treaty that would replace the entire body of primary law and dissolve the 'pillar structure' (CONV 305/02). Thus, the course toward a fully-fledged Constitutional Treaty was settled. Only the next day VGE established that these recommendations gave reason to 'rethink, readjust and – in part – reinvent the system and propose a New Europe' (Giscard d'Estaing 2 October 2002). On 28 October, the Convention's ultimate goal was sealed at last when VGE submitted the preliminary draft of the Constitutional Treaty (CONV 369/02). Since it was penned by VGE, the draft was also referred to as Giscard's 'skeleton', and the Conventioneers' work would subsequently concentrate on 'fleshing out the Skeleton'.

To summarize, a plethora of potential topics and the complexity associated with the WG approach implied multiple courses and outcomes and created the demand for a leader setting the agenda and steering the debate. Since decisions on the order of items rested *de facto* with the triumvirate, the Chairmen were able to significantly shape the form and objective of the Convention's outcome. Without the triumvirate's decision on the exact sequence of WGs, that is, the postponement of institutional questions, and the early discussion of legal issues, the outcome would have been very different as the example of the question of legal personality demonstrated.¹⁷ The particular form of the Convention's outcome, a fully-fledged Constitutional Treaty that would recast and legally succeed the entire body of EU primary law, is not conceivable without the particular agenda set by VGE and his vice-presidents.

3.4 The proposal stage: shaping the substance

Since the Convention was now about to touch every single piece of EU law, the presentation of the 'skeleton' brought to mind the increased significance of the Convention's work. Member states consequently showed their intention to influence the Convention from inside and outside; for instance, by replacing their representatives with foreign ministers and by producing own proposals on core issues. Yet, institutional issues were still postponed, and the Convention's work focused more narrowly on EU policies.

The demand for leadership

Subsequent to the presentation of the first 16 articles on 6 February 2003, which heralded the beginning of the proposal stage, the Convention's work drastically changed. The Plenary sessions were still important and well attended, but the emphasis was clearly put on issuing articles and proposing amendments. Since the Convention now dealt with a plethora of multidimensional issues, it was necessary to have a chairperson to decide on the agenda and table proposals. Furthermore, the complexity associated with the overwhelming bulk and range of articles and amendments heavily increased the transaction costs and created the demand for a centralized provision of negotiation-relevant information. Moreover, these transaction costs obviously stressed, even overstrained, many Conventioneers – an aspect that was further increased by very strict and short deadlines of mostly less than a week. This put those Conventioneers with a low administrative capacity at a disadvantage, and evoked an increased critique of the ever more dominant role of Chairmen and Praesidium: 'There must not be an individual dialogue between one person producing an amendment and the Praesidium. We must have the opportunity of seeing each others' amendments so that we know the totality of the debate' (Lord Tomlinson 6 February 2003). Nonetheless, several thousand amendments were issued from February to mid-May, ranging from federalist to strongly Eurosceptic ideas.

The supply of leadership in a non-unanimous setting

Decision-making in this phase followed the following sequence: VGE and his two vice-presidents presented draft articles, which were then discussed by and consensually passed through the Praesidium. Conventioneers could then propose amendments and changes to these texts, whereupon the Secretariat, working in close co-operation with the triumvirate, suggested how the amendments should be selected and integrated into the 'skeleton'. Those modifications were again passed through the Praesidium, and the new texts were then circulated for further criticism. The Conventioneers were thus free to criticize the drafts, but they had to take them as a working basis, and form strong coalitions if they wanted to signal their significance and amend the proposals put on the table (see Tsebelis and Proksch 2007: 171–7). In consequence, and because they were presumably the only actors with a concise overview of all proposals, VGE, the Secretariat, and to a lesser extent the Praesidium, all had a remarkable freedom to shape the 'broad consensus'.

The Constitution's preamble issued in May 2003 provides a good illustration. More accurately, it was VGE's preamble, as it bore his characteristics and was one of his most prestigious pet projects (Norman 2005: 223–4; De Poncins 2003: 118). Starting with an inadequate quote from Thucydides, the first draft (CONV 722/03) was a lofty ride through European history that probably 'told its readers more about the author's perception of himself than the historical roots of the constitutional treaty' (Norman 2005: 224). In addition, it was politically contentious as it omitted a precise reference to

God and Christianity as well as leaving aside the objective of an 'ever closer union' – the federalist legacy of the Treaties of Rome. Consequently, the majority of amendments and plenary contributions either suggested including a more precise reference to the Judaeo-Christian and/or federalist heritage, or applauded the draft for this omission. The preamble was continuously criticized in the following plenary debates, and VGE was asked to 'look closely at the various redrafts of the preamble' that the Conventioneers had sent up (Andrew Duff 5 June 2003) and to 'consider the views of the many Convention Members in order to reach a compromise' (Edmund Wittbrodt 12 June 2003). Nonetheless, despite strong criticism especially on the part of the European People's Party (EPP), VGE was able to take advantage of this disagreement and put through his preferred text. In the end, the version that ultimately precluded the Draft Constitutional Treaty showed only insignificant changes in comparison to the first draft.

To sum up, the heavy workload in this proposal stage and controversial issues with multiple dimensions created a demand for an actor to determine the exact meaning of the term 'broad consensus'. Leadership was achieved through VGE's command of procedural resources such as the right to table proposals and to set deadlines, and the highly professional support of the Secretariat.

What would have been the outcome in the absence of VGE's action? Since VGE's views on policies were less pronounced, it is difficult to assess this question definitively. However, some of his characteristics, as exemplified by the preamble to the Constitutional Treaty, indeed survived the opposition of a large number of Conventioneers. In this case, VGE's ability to realize his preferences through setting the agenda was enabled by the non-unanimous setting that prevented outlier preferences from putting a stop to the negotiations. A closer look at the negotiations might unearth more of these examples.

3.5 The end game: the limits of leadership on institutional questions

With ongoing work, the postponed discussion on institutional issues could no longer be suppressed. Beginning with the Franco-German compromise of January 2003, institutional issues, notably the size of the Commission, the weighting of votes in the Council, and the (European) Council Presidency, slowly surfaced in the discussions. Although government representatives had already dealt with these issues in previous IGCs, the Convention's outcome nonetheless differs in important respects from the *status quo ante*, that is, the Treaty of Nice. It features a new weighting of votes based on the system of double majority, it creates the position of a double-hatted foreign minister that merged the Commission's and the Council's external representation, and it strengthens the European Council through establishing a permanent president. As it partly reflects VGE's preferences, one is tempted to infer from this outcome that the Chairman indeed made a difference. A simple coincidence of an outcome with a leader's preferences, however, does not demonstrate his

influence, and it is *prima facie* not revealing that his 'success rate was phenomenal even in areas where preferences were firm, and concessions most difficult to be achieved' (Tsebelis 2005: 4). In order to demonstrate his influence on institutional questions, we first have to ask whether the context of the negotiations featured conditions conducive to VGE's influence.

The demand for leadership on institutional issues

In contrast to the discussion on policies, negotiations on the tricky institutional questions would now retreat into the Praesidium or outside the Convention. On these issues governmental preferences were clear, stable and very intense. After all, these were exactly the questions that the member states had dealt with over and over again in the last 15 years. Consequently, the old cleavages between large and small, and federalist and intergovernmentalist member states reappeared, and the break-up into components and national delegations could no longer be prevented (Göler 2006: 239–41). Meetings of government representatives now deliberately broke with the habits of the Convention as participants sat behind cards bearing the names of their countries rather than of individual Conventioneers (Norman 2005: 237). Furthermore, government representatives began uttering threats to veto the whole endeavour, as, for instance, Peter Hain (15 May 2003) did with regard to the presidency of the Council: 'I say to people that if they want an outcome to this Convention, as I do, with a single text all agreed, compromising and forming a consensus, an elected president/chairman of the Council is an indispensable part of that'. The discussions were less complex as they focused on a small number of issues. Thus, neither transaction costs nor unstable agendas were any longer of concern. And since preferences on these issues were well known and stable, informational asymmetries were not particularly relevant either. In other words, the demand for leadership vanished, and VGE's agenda-setting power and other procedural resources became less powerful devices. The original negotiation setting that had proved to be an ideal environment for VGE's influence was slowly abandoned in favour of an IGC-like, unanimous setting, in which government representatives' approval became essential.

The supply of leadership in a unanimous setting

If VGE's procedural resources lost their importance, how else could he have wielded influence in this IGC-like, unanimous setting?¹⁸ First, he could have tried to gain privileged access to private information about governmental red lines in order to exploit even the slightest informational asymmetries among them. Second, he could have tried to convince governments of the appropriateness of his proposals.¹⁹ Either way, a trustworthy reputation was a fundamental prerequisite for eliciting private information and exerting social influence. But VGE's attempt to shape the institutional architecture turned out to be increasingly difficult. In order to avoid his own proposal on institutions being watered down by the Praesidium, he took the risk of delivering a coup by drafting his

own institutional chapter that he leaked to the press before presenting it to the Praesidium. This proposal included among other items a permanent president of the European Council to be supported by a bureau to oversee and streamline EU activities. Furthermore, the size of the Commission would be substantially slimmed down, and its president chosen by the European Council (European Report 24 April 2003). He finally suggested an article on a Congress of People, the function of which, however, remained elusive. In particular, the article on a permanent presidency received harsh criticism from the 18 small member states, whose plea only one week earlier at the Athens summit to keep the rotating presidency VGE had simply disregarded (European Voice 24 April 2003). Through this attempted *fait accompli* the Chairman seriously annoyed the Praesidium, and the small member states in particular:

The government representatives ... met this morning as a separate component of the Convention and declared their desire to reach a consensual solution even in these difficult matters. But they felt that the conditions created were not very likely on this particular occasion to help this procedure. The leak to the press upset them very much. They felt that their views ... had not been echoed enough in your proposals. ... I would like to call your attention to these worries that have created great unease among the government representatives.

(George Katiforis 24 April 2003)

What is more, this procedure aroused a second opposition, mainly led by Poland and Spain, as VGE's articles now clearly went beyond the Nice provisions as far as voting provisions in the Council were concerned (Bulletin Quotidien Europe 24 April 2003). When at the end of May and in early June 2003 the Convention decided on crucial institutional questions, plenary sessions were completely sidelined. Since the major splits now ran through the Praesidium, and more importantly left government representatives divided, important negotiations took place behind closed doors within the Praesidium. In response to the growing compartmentalization, and in order to acquire information about the particular red lines, the triumvirate decided to approach each component separately. VGE's meetings with government representatives, however, showed substantial divergences and mistrust on the part of this component, and he was told in no uncertain terms that he was only a guest at their meetings (Norman 2005: 237). A major impasse could only be avoided by taking a disappointed VGE out for dinner and letting his vice-president handle the governments (Norman 2005: 252). The fact that governments started questioning the importance of his proposal testifies to his impotence on institutional questions. Several countries, notably the UK, were quick to water down the status quo character of VGE's articles and the Constitutional Treaty itself as 'a very good basis for negotiation in the *Intergovernmental Conference*' (Peter Hain 11 June, quoted in Norman 2005: 249; emphasis added). Thus, VGE was forced to anticipate a possible compromise between the governments when tabling revised articles for the whole of Part I and the

Preamble. And indeed, the final set of articles presented to Plenary showed significant changes to several of VGE's pet issues: the European Council 'shall not exercise legislative functions'; the board supporting the permanent president was abolished; the permanent president of the European Council was accompanied by a difficult system of rotation in the other Council formations; the reduction of the Commission's size was postponed until 2009 and likewise based on a difficult rotation system; and, finally, even though the final draft contained the double majority for weighting votes in the Council, it was still highly contested and going to be changed in the following IGC (CONV 811/03 and 850/03). These revised articles finally received the agreement of the Praesidium and subsequently the Convention.

Did VGE influence the outcome on institutions in such a way that it would not have occurred otherwise? The only way to wield influence in a unanimous setting with little, if any, demand for leadership was to establish a text as the status quo that did not simply anticipate a government compromise. To do so, VGE had to gain privileged access to information and ideas in order to exploit even the slightest informational asymmetries between the components, or to persuade the government representative of the appropriateness of his proposals, respectively. But as we saw, this proved very difficult, even impossible as VGE had gambled away his reputation and was ultimately even regarded as a source of irritation for the final agreement. And indeed, in response to several threats of veto, the final set of articles presented to Plenary shows significant changes to several of VGE's pet issues. In the end, all solutions with regard to the three core institutional issues – the chairman of the European Council, the size of the Commission, and the weighting of votes in the Council – show features of a genuine compromise between large and small, and federalist and integrationist countries (see also the discussion in Göler 2006: 263–73). In other words, although the Convention's outcome partly deviates from the Nice Treaty, this is probably rather due to separate intergovernmental deals struck *regardless of VGE's intervention*. Even where the final outcome partly coincides with his preferences, VGE was not able to shape the negotiations on institutional issues toward an outcome that would not have been attained anyway.

4. CONCLUSION

The European Convention achieved an outcome that nobody had expected before: it agreed on a fully-fledged Constitutional Treaty that was meant to legally succeed the EU's entire patchwork primary law and that renegotiated many of the Nice provisions even before this recently signed treaty had come into force. I have argued that the Chairman of the Convention, VGE, was able to influence the *form* of the Convention's outcome and to some extent its content on issues of minor importance, but not its very *substance* on institutional matters.

As his influence was contingent on the extent of the negotiation problem, his command of procedural resources, and, most importantly, the underlying decision rule, the decision to aim at an elusive 'broad consensus' was crucial. It established a non-unanimous setting that enabled VGE to skilfully exploit his agenda-setting rights to his advantage. The more the Convention approached institutional questions, however, where member states insisted on their veto, and governmental preferences were well known, the more the Convention was turned into a *de facto* unanimous, IGC-like setting. In the end, Giscard, acting in concert with his vice-presidents, significantly shaped the Convention's outcome by guiding the Conventioneers to aim at a particular format, a fully-fledged Constitutional Treaty. But he was not able to attain what he had originally aimed for: to substantially influence the Constitution on institutional questions. The final agreement on institutions is probably best conceived of as a pure compromise between large and small, and federalist and intergovernmental member states.

Ironically, the Convention's widely hailed 'success' in negotiating a Constitution was arguably also its ruin. In the ratification process, some member states decided to engage in an *ad-hoc* public relations effort, and make the fate of the Constitution subject to its approval in referenda. But in contrast to a mere amending treaty that would only entail changes to existing provisions, European citizens were now confronted with the entirety of European law, and the often hardly comprehensible results of 50 years of incremental legal integration. The Constitution consequently attracted even more criticism from all sorts of different camps – a reason why the member states had so far shied away from agreeing on a consolidated Constitutional Treaty on the basis of a single legal personality. This aspect should be considered in a future renewal of the constitutional debate.

Biographical note: Mareike Kleine is a doctoral candidate at the Centre for Transnational Relations, Foreign and Security Policy at the Freie Universität Berlin, Germany.

Address for correspondence: Mareike Kleine, Centre for Transnational Relations, Foreign and Security Policy, Otto-Suhr-Institut for Political Science, Freie Universität Berlin, Ihnestr. 21, D – 14195 Berlin, Germany. email: makleine@zedat.fu-berlin.de

ACKNOWLEDGEMENTS

For helpful comments on numerous earlier versions of this paper I am most grateful to Hervé Bribosia, Lisa Camner, Andrea Everett, David Hsu, Paul Magnette, Sophie Meunier, Thomas Risse, Jordan Tama, two anonymous reviewers, and the participants of the ECPR Workshop 'Political Agency in European Constitutional Politics' in Granada, 14–18 April 2005, and of the International Relations Graduate Research Seminar at Princeton University. I owe Andy Moravcsik a special 'Dankeschön'! I am grateful and heavily indebted

to him for his continuous encouragement and excellent advice. Any remaining mistakes and expressed opinions are my own. Comments are most welcome.

I wish to acknowledge the support provided by the German Academic and Research Council/Deutscher Akademischer Austauschdienst (DAAD), the European Union Program at Princeton University (<http://www.princeton.edu/~europe>), and the European Union under the 6th Framework Programme (Contract No. CIT1-CT-2004-506392).

NOTES

- 1 See <http://european-convention.eu.int>.
- 2 Excellent accounts are provided by Norman (2005) and Milton and Keller-Noëllet (2005).
- 3 For the general functionalist argument in international relations, see Keohane (1984).
- 4 On counterfactuals, see Fearon (1991: 40).
- 5 For a discussion on transaction costs in negotiations, see Young (1991, 1999) and Moravcsik (1999a, 1999b).
- 6 Similarly Morrow (1994: 388) and Fearon (1998: 274).
- 7 For a discussion of agenda-setting, see Riker (1980, 1986) and Shepsle (1979).
- 8 On focal points, see Goldstein and Keohane (1993: 17–20), Garrett and Weingast (1993: 181–7), and Schelling (1960: 70).
- 9 See also the discussion in the principal–agent literature: Kiewiet and McCubbins (1991: 3) and McCubbins *et al.* (1987, 1989).
- 10 See also Shepsle and Weingast (1984, 1987), and Tsebelis (1994). More generally for the EU, see Pollack (1997, 2003).
- 11 Giscard's institutional preferences are clearly presented in his speeches and press conferences, and were formalized in the draft articles he leaked to the press in April 2003. For personal testimonies on his institutional reflections, see Lamassoure (2004) and Magnette (2005a).
- 12 The Independent 25 February 2002, The Independent 28 February 2002, European Report 27 February 2002.
- 13 The Laeken Declaration had already made clear that the accession candidate countries, although allowed to contribute fully to the debate, were not able to prevent the emergence of a consensus among the full members.
- 14 From a Habermasian discourse-oriented perspective, it is argued that therefore the Convention provided a negotiation setting that enabled processes of arguing (see Kleine and Risse 2006; Göler 2006; also Magnette 2005b).
- 15 'Don't be too preoccupied with the label "constitution" because that can imply some kind of "superstate" design and that is not what is our opinion of it – the BBC has a constitution and the Labour Party has a constitution' (Peter Hain in Financial Times 28 February 2002).
- 16 See *inter alia* Bribosia (2001: 13) and De Witte (2002: 1274).
- 17 It remains *prima facie* puzzling why the WG, in contrast to previous IGCs, managed to agree on this question so quickly and smoothly. The reason lies in the fact that the UK had already conceded using the term 'Constitutional Treaty'. In addition to that, the decision rule proved crucial: dissenters in the Convention could not simply block a decision, but had to give reasons for their view to show that it was 'significant grousing'. The politicized context of the Convention, however, and the rhetoric of its higher legitimacy, made public arguments about possible ratification problems virtually impossible (Kleine and Risse 2006).
- 18 See Moravcsik (1998, 1999a).

- 19 However, the literature on socialization and argument suggests that a fundamental prerequisite for those mechanisms of social influence is the *a priori* uncertainty about own preferences (Johnston 2005: 1015; Risse 2000: 19).

REFERENCES

- Bribosia, H. (2001) 'The simplification of the treaties and the post-Nice constitutional agenda of the European Union', *International Law FORUM du droit international* 3(4): 208–20.
- Bulletin Quotidien Europe. 24 April 2003. EU/Convention. Bulletin No. 8448.
- CONV 03/02. Draft Rules of Procedure. Brussels, 27 February 2002.
- CONV 04/02. Speeches delivered at the inaugural meeting of the Convention on 28 February 2002. Brussels, 5 March 2002.
- CONV 09/02. Note on Working Methods. Brussels, 14 March 2002.
- CONV 73/02. Mandate of the Working Group on Legal Personality. Brussels, 31 May 2002.
- CONV 250/02. Simplification of the Treaties and drawing up of a constitutional treaty. Brussels, 10 September 2002.
- CONV 305/02. Final Report of the WG III on Legal Personality. Brussels, 1 October 2002.
- CONV 369/02. Preliminary draft Constitutional Treaty. Brussels, 28 October 2002.
- CONV 722/03. Preamble. Brussels, 28 May 2003.
- CONV 811/03. Revised Texts. Brussels, 12 June 2003.
- CONV 850/03. Draft Treaty Establishing a Constitution for Europe. Brussels, 18 July 2003.
- De Poncins, E. (2003) *Vers une Constitution Européenne*, Paris: Editions 10/18, pp. 10–18.
- De Witte, B. (2002) 'Simplification and reorganization of the European Union treaties', *Common Market Law Review* 39(6): 1255–87.
- Deloche-Gaudez, F. (2004) 'Le Secrétariat de la Convention Européenne: un acteur influent?', *Politique européenne* 13(printemps): 43–67.
- Duff, A. 24 May 2002. Intervention in the Plenary of the European Convention.
- Duff, A. 5 June 2003. Intervention in the Plenary of the European Convention.
- European Council (2001) Laeken Declaration on the Future of the European Union. 14 and 15 December 2001. SN 300/1/01 REV 1.
- European Report. 19 December 2001. European Council. EU Leaders Open the Door to a European Constitution.
- European Report. 27 February 2002. IGC Convention. MEPs attack Giscard d'Estaing's Plans.
- European Report. 16 March 2002. European Convention: Bid to Involve Civil Society in the Forum's Work.
- European Report. 24 April 2003. European Convention – Giscard sets out European Visions.
- European Voice. 24 April 2003. Giscard blueprint branded unacceptable by small states.
- Fearon, J. (1998) 'Bargaining, enforcement, and international cooperation', *International Organization* 52(2): 269–305.
- Fearon, J.D. (1991) 'Counterfactuals and hypothesis testing in political science', *World Politics* 43(2): 169–95.
- Financial Times. 28 February 2002. Hain says UK's Europe policy has not changed.
- Garrett, G. and Weingast, B.R. (1993) 'Ideas, interests, and institutions: constructing the European Community's internal market', in J. Goldstein and R.O. Keohane (eds), *Ideas and Foreign Policy. Beliefs, Institutions, and Political Change*, Ithaca, NY: Cornell University Press, pp. 173–206.

- Giscard d'Estaing, V. 2 October 2002. Speech by Mr Valéry Giscard d'Estaing. Chairman of the European Convention. Opening of the Academic Year at the College of Europe. Bruges, 2 October 2002.
- Goldstein, J. and Keohane, R.O. (1993). 'Ideas and foreign policy: an analytical framework', in J. Goldstein and R.O. Keohane (eds), *Ideas and Foreign Policy: Beliefs, Institutions, and Political Change*, Ithaca, NY: Cornell University Press, pp. 3–30.
- Göler, D. (2006) *Deliberation – Ein Zukunftsmodell europäischer Entscheidungsfindung? Analyse der Beratungen des Verfassungskonvents 2002–2003*, Baden-Baden: Nomos.
- Hain, P. 15 May 2003. Intervention in the Plenary of the European Convention.
- Hänsch, K. 22 November 2002. Speech delivered at the German-Hungarian Forum, Berlin.
- Hänsch, K. (2003) 'Der Konvent – unkonventionell', *Integration* 26(4): 331–7.
- Interview with a member of the Commission, 2 May 2005.
- Johnston, A.I. (2005) 'Conclusion and extensions: toward mid-range theorizing and beyond Europe', *International Organization* 59(4): 1013–44.
- Katiforis, G. 24 April 2003. Intervention in the Plenary of the European Convention.
- Keohane, R.O. (1984) *After Hegemony. Cooperation and Discord in the World Political Economy*, Princeton, NJ: Princeton University Press.
- Kiewiet, D.R. and McCubbins, M.D. (1991) *The Logic of Delegation: Congressional Parties and the Appropriations Process*, Chicago: University of Chicago Press.
- Kleine, M. and Risse, T. (2006) Manuscript: "Constitutional talk". The impact of institutions on negotiations'. Berlin.
- Krasner, S.D. (1991) 'Global communications and national power: life on the Pareto frontier', *World Politics* 43(3): 336–66.
- Lamassoure, A. (2004) *Histoire Secrète de la convention européenne*, Paris: Albin Michel.
- Lax, D.A. and Sebenius, J.K. (1986) *The Manager as Negotiator: Bargaining for Cooperation and Competitive Gain*, New York: Free Press.
- Lord Tomlinson. 6 February 2003. Intervention in the Plenary of the European Convention.
- Magnette, P. (2005a) 'How Giscard failed to govern the European Convention'. Paper presented at the ECPR Joint Sessions, Granada, 14–18 April. ECPR Joint Sessions, Granada.
- Magnette, P. (2005b) 'In the name of simplification: coping with constitutional conflicts in the Convention on the Future of Europe', *European Law Journal* 11(4): 432–51.
- Magnette, P. and Nicolaidis, K. (2004) 'The European Convention: bargaining in the shadow of rhetoric', *West European Politics* 27(3): 381–404.
- McCubbins, M.D., Noll, R.G. and Weingast, B.R. (1987) 'Administrative procedures as instruments of political control', *Journal of Law, Economics, & Organization* 3(2): 243–77.
- McCubbins, M.D., Noll, R.G. and Weingast, B.R. (1989) 'Structure and process, politics and policy: administrative arrangements and the political control of agencies', *Virginia Law Review* 75(2): 431–82.
- McKelvey, R.D. (1975) 'Intransitivities in multidimensional voting models and some implications for agenda control', *Journal of Economic Theory* 12(3): 472–82.
- Milton, G. and Keller-Noëllet, J. (2005) *The European Constitution. Its Origins, Negotiation and Meaning*, London: John Harper Publishing.
- Moravcsik, A. (1998) *The Choice for Europe: Social Purpose and State Power from Rome to Maastricht*, Ithaca, NY: Cornell University Press.
- Moravcsik, A. (1999a) 'A new statecraft? Supranational entrepreneurs and international cooperation', *International Organization* 53(2): 267–306.
- Moravcsik, A. (1999b) 'Theory and method in the study of international negotiation: a rejoinder to Oran Young', *International Organization* 53(4): 811–14.
- Morrow, J.D. (1994) 'Modeling the forms of international cooperation: distribution versus information', *International Organization* 48(3): 387–423.

- Norman, P. (2005) *The Accidental Constitution. The Making of Europe's Constitutional Treaty*, 2nd edn, Brussels: EuroComment.
- Pollack, M.A. (1997) 'Delegation, agency and agenda setting in the European Community', *International Organization* 51(1): 99–134.
- Pollack, M.A. (2003) *The Engines of European Integration*, Oxford: Oxford University Press.
- Riker, W.H. (1980) 'Implications from the disequilibrium of majority rule for the study of institutions', *American Political Science Review* 74(2): 432–46.
- Riker, W.H. (1986) *The Art of Political Manipulation*, New Haven and London: Yale University Press.
- Risse, T. (2000) "Let's Argue!" Communicative action in world politics', *International Organization* 54(1): 1–39.
- Schelling, T. (1960) *The Strategy of Conflict*, Cambridge, MA: Harvard University Press.
- Shepsle, K.A. (1979) 'Institutional arrangements and equilibrium multidimensional voting models', *American Journal of Political Science* 23(1): 27–59.
- Shepsle, K.A. and Weingast, B.R. (1984) 'Uncovered sets and sophisticated voting outcomes with implications for agenda institutions', *American Journal of Political Science* 28(1): 49–74.
- Shepsle, K.A. and Weingast, B.R. (1987) 'The institutional foundations of committee power', *American Political Science Review* 81(1): 85–104.
- Stuart, G. 27 September 2002. Speech delivered at the Institut für Europäische Politik Berlin.
- Süddeutsche Zeitung. 28 February 2002. 'Der Konvent ist autonom'. Jean-Luc Dehaene warnt Staatschefs vor Intervention.
- Tallberg, J. (2006) *Leadership and Negotiation in the European Union*, Cambridge: Cambridge University Press.
- The Economist. 14 July 2001. The Belgians, that is, now in the European Union's chair.
- The Independent. 25 February 2002. Grandees Gather for Battle over Future of Europe.
- The Independent. 28 February 2002. Skirmishes as Leaders Meet to Plot Future of Europe.
- Tsebelis, G. (1994) 'The power of the European Parliament as a conditional agenda-setter', *American Political Science Review* 88(1): 128–42.
- Tsebelis, G. (2005) 'Agenda setting in the EU Constitution'. Paper presented at the Domestic Structures and European Integration Conference, Brussels.
- Tsebelis, G. and Proksch, S.-O. (2007) 'The art of political manipulation in the European Convention', *Journal of Common Market Studies* 45(1): 157–86.
- Winham, G.R. (1977) 'Complexity in international negotiation', in D. Druckman (ed.), *Negotiations. Social-Psychological Perspectives*, Beverly Hills and London: Sage Publications, pp. 347–66.
- Wittbrodt, E. 12 June 2003. Intervention in the Plenary of the European Convention.
- Young, O.R. (1991) 'Political leadership in regime formation: on the development of institutions in international society', *International Organization* 45(3): 281–308.
- Young, O.R. (1999) 'Comment on Andrew Moravcsik, "A new statecraft? Supranational entrepreneurs and international cooperation"', *International Organization* 53(4): 805–10.
- Zartman, I.W. (1994) 'Two's company and more's a crowd. The complexities of multilateral negotiation', in I.W. Zartman (ed.), *International Multilateral Negotiation. Approaches to the Management of Complexity*, San Francisco: Jossey-Bass Publishers, pp. 1–10.