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Informal procedures, institutional change, and EU decision-making: evaluating the effects of the 1974 Paris summit

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ABSTRACT
The Paris summit of 1974 produced an informal agreement to renounce a previous informal agreement, the famous Luxembourg Compromise of 1966 about qualified majority voting (QMV). The dominant view within existing scholarship is that the Paris summit had no effect because the Luxembourg Compromise and its consensus norm persisted at least into the 1980s: QMV was inoperative before and remained inoperative after. Using quantitative analysis and extensive process tracing, we provide the first systematic empirical test of this conventional view and of the summit's effects. Although superficially our null finding (no effect) appears to confirm previous accounts, it constitutes further evidence against prevailing 'veto culture' narratives and challenges existing theories about informal institutions and institutional change.

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KEYWORDS Decisionmaking; European Union; Informal procedures; Paris summit; Luxembourg compromise; Institutions

Introduction

In the European Union (EU), the treaty articles upon which a proposal is based determine whether it is formally subject to unanimous or qualified majority voting (QMV) in the Council of the EU (formerly Council of Ministers). The prevailing view in existing scholarship suggests that the informal agreement known as the Luxembourg Compromise of 1966 introduced a consensus norm that rendered QMV inoperative and thereby paralysed decision-

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making, whereas the informal agreement at the Paris summit of 1974 to renounce the Luxembourg Compromise had no effects and the consensus norm persisted at least into the 1980s (Moravcsik, 1998, pp. 311–312; Teasdale, 1993, p. 570). Yet despite the prevalence of this account, to date, there have been almost no systematic analyses of how informal agreements affected EU decision-making before the 1980s.

To help fill this gap, we develop and test hypotheses about the expected effects of the Paris summit on both Commission and Council behaviour. Our analysis is novel in several respects. The Paris communiqué is an example where 'all actors may agree to abolish the informal rule that has been bargained interstitially [i.e., between treaty reforms]' (Héritier, 2012, p. 343), but it is not a case of 'informal rules emerging from formal rules' nor of 'their subsequent formalization' (2012, p. 349), but rather the interesting theoretical case of one informal agreement renouncing a previous informal agreement. Our analysis is the first to examine whether a major informal (i.e., non-treaty) EU agreement reverses the effects of a previous major informal EU agreement. Methodologically, it combines extensive archival process-tracing, comparative case studies, and large-n quantitative analysis of original data.

We first provide a brief review of the conventional wisdom regarding the Luxembourg Compromise and the Paris communiqué. We then derive a set of testable hypotheses about the communiqué's effect on EU decision-making. This is followed by a discussion of our methods, data, and findings. Our results suggest that even though the communiqué's statement about renouncing the Luxembourg Compromise constitutes a likely case of institutional change, it had no significant effects on subsequent EU decision-making. The main explanation for this negative result appears to be that the role of informal procedures in the EU has been overstated, and that formal voting rules operated as expected both before and after the Paris summit. Although superficially our null finding (no effect) appears to confirm previous accounts, it constitutes further evidence against prevailing 'veto culture' and 'consensus' narratives, and challenges existing theories of informal institutions and institutional change.

Voting rules and informal institutional change

The 1957 Treaty of Rome provided considerable detail about the voting rules that would apply to EU decision-making (Mahant, 2004, pp. 93–99, pp. 311–318). The six Member States could have adopted unanimity voting for everything, or QMV for everything, or not even mentioned voting rules. But they didn't. Simple majority in the Council of Ministers was the default if no other rule was explicitly specified (Article 148). In a few fields, QMV applied immediately, and in many other sectors treaty articles stated explicitly that

QMV would replace unanimity at the start of either the second stage (1 January 1962) or third stage (1 January 1966) of the transition period. Some treaty articles provided only for unanimity, whereas others carved out space for either QMV or unanimity depending on the nature of the policy proposal.

In June 1965, President Charles de Gaulle triggered the 'empty chair' crisis – instructing French officials to boycott meetings of the Council of Ministers – ostensibly over disagreements about financing of the Common Agricultural Policy, but arguably his overriding concern was the treaty's provision for greater use of QMV as of January 1966 (Vanke, 2014, p. 154). The crisis ended six months later with the signing of the Luxembourg Compromise, which contained the following section on the majority voting procedure:

> Where, in the case of decisions which may be taken by majority vote on a proposal of the Commission, very important interests of one or more partners are at stake, the Members of the Council will endeavour, within a reasonable time, to reach solutions which can be adopted by all the Members of the Council while respecting their mutual interests and those of the Community. […] [T]he French delegation considers that where very important interests are at stake the discussion must be continued until unanimous agreement is reached. The six delegations note that there is a divergence of views on what should be done in the event of a failure to reach complete agreement.

Despite the profound differences of opinion between the French and the other delegations evident in its wording, scholars overwhelmingly contend that the Luxembourg Compromise introduced the informal norm whereby isolating and outvoting individual governments must be avoided under all circumstances (Aus, 2008, p. 102). This was achieved by spending extra time negotiating beyond the QMV threshold in order to reach consensus (Aus, 2008; Heisenberg, 2012; Lewis, 2008), even when no 'very important national interest' had been identified (Teasdale, 1993, p. 570). Not only did QMV rarely take place, but allegedly the threat, or 'shadow' of the vote was rendered ineffective (Golub, 1999). In sum: 'The result was de facto unanimous voting even where QMV was authorized' (Moravcsik, 1998, p. 315), so that 'any member state could veto secondary legislation that required Council approval' (Stone Sweet & Caporaso, 1998, p. 116).

The Paris summit of December 1974 discussed a number of policy and institutional matters (Bulmer & Wessels, 1987, pp. 41–46; Mourlon-Druol, 2010), but we focus on its announcement to renounce the Luxembourg Compromise. Here is the key passage of the final communiqué:

> 'In order to improve the functioning of the Council of the Community, [the Heads of Government] consider that it is necessary to renounce the practice which consists of making agreement on all questions conditional on the

> unanimous consent of the Member States, whatever their respective positions may be regarding the conclusions reached in Luxembourg on 28 January 1966 (EC, 1974).'

Existing literature explicitly or implicitly maintains that the Paris announcement had no effect because the Luxembourg Compromise continued to paralyse decision-making into the 1980s. Teasdale claims explicitly that the Paris communiqué

> '… changed nothing. Matters blocked on routine policy grounds by one Member State continued simply not to get adopted. It was not necessary for the Luxembourg Compromise to be invoked formally – recourse was had to it perhaps only 10 times in the 15 years after 1966 – for decision-making on literally hundreds of Commission proposals over these years to be still-born. This pervasive immobilism within the Council prevailed until the early 1980s … ' (1993, pp. 570–571)

Moravcsik states that the communiqué did not introduce any 'general change' in the use of QMV because there was little support amongst Member States for abolishing the Luxembourg Compromise, and that only as a result of the formal treaty reforms contained in the 1986 Single European Act was voting once again practiced as conceived before 1966 (1998, pp. 311–312, 315). Moravcsik even alleges that the lone opposition by the UK [notably Foreign Secretary and later Prime Minister James Callaghan] was enough to block any general shift towards more QMV (1998, p. 311).

Ubiquitous claims by political scientists and historians about how the Luxembourg Compromise continued to paralyse EU decision-making for decades implicitly suggest that the Paris summit had no effect (Golub, 1999, p. 735 lists 17 such citations, see also Reestman & Beukers, 2017, p. 2; Hix & Hoyland, 2022, p. 60). For example, Michael Gehler asserts that 'The so-called Luxembourg Compromise prevented effective decision-making in the Council for almost 20 years' (2023, p. 67). Jean-Marie Palayret maintains that following the Luxembourg Compromise 'a state of semi-paralysis [ensued] from which the European Communities were only partially released many years later' (2006, p. 46).

However, this vast literature on the debilitating effects of the Luxembourg Compromise and the irrelevance of the Paris summit is remarkably thin on empirical evidence, and to date there have been almost no systematic analyses of how informal agreements affected EU decision-making before the 1980s. Many accounts cite no evidence at all, while others rely on impressionistic and often contradictory recollections of practitioners. Kleine (2013, pp. 92–95), for example, cites contemporary accounts from the 1960s that claim, on one hand, that there was a 'horror' of majority decision-making and that the Council virtually never made use of it, while on the other hand that QMV always remained an option and that plenty of decisions were subject to QMV. Regarding the 1970s, Kleine (2013, pp. 96–97) first

suggests there was a substantial rise in majority voting, citing Commission reports that by 1976 a number of decisions were taken by majority vote and that by 1977 majority voting had become 'standard practice'. Although she does not mention the Paris summit, she could also have cited the Commission report that the communiqué produced an increased use of QMV during 1975 (EC, 1976, p. 20). But immediately after Kleine also cites a Council report from 1977 claiming that since late 1976 'there has been a slight increase in majority voting in the Council' (EC, 1977, p. 10), as well as the recollection of Jean-Louis Dewost, Director-General of the Legal Service of the Council of Ministers and later of the Commission, that the Council only moved from 'a few isolated votes each year to about 10 in 1980' (2013, pp. 96–97), and further that QMV was largely confined to agriculture, all of which is clearly inconsistent with the claim that QMV had become standard practice by 1977. Hayes-Renshaw and Wallace (2006, p. 268; see also Kleine, 2013; p. 173fn7 and Jupille, 2004, p. 85) cite former Belgian ambassador Jean De Ruyt's claim that there were 'between six and ten' decisions by QMV in 1966–1974, and 'around 35 between 1974 and 1979'. De Ruyt's recollection differs from Dewost's, definitely contradicts the Commission reports, and moreover could not have been based on personal experience since he only joined COREPER in 1982.

Besides being impressionistic and somewhat contradictory, all of the various sources cited above suffer from a further crucial limitation in that they focus solely on counting the number of votes actually taken per year. While suggestive, under a consensus norm the primary difference to the formal process is not 'the lack of a procedural vote' (Heisenberg, 2012, p. 376) but rather the absence of a *potential* procedural vote. The threat, or 'shadow' of the vote is key, and actual votes are akin to the nuclear option in legislative decision-making. Just as one cannot evaluate the effect of possessing nuclear weapons simply by counting the frequency of detonations, a truly effective deterrent is never used. Merely counting votes taken does not get to the heart of whether the Luxembourg Compromise caused decision-making on hundreds of Commission proposals to be still-born or painfully slow. Only two studies have systematically explored the shadow of the vote in the 1960s and 1970s and both found that formal voting rules operated as expected, which suggests that the Luxembourg Compromise had no significant effects (Golub, 2006, 2007). But these studies looked only at proposals for Directives, not Regulations or Decisions, and crucially they did not investigate whether the Paris summit altered decision-making. While the Community adopted significantly fewer laws during the six-month window of the empty chair crisis, there was no obvious lasting effect on adoption rates beyond 1965 (Ovádek, forthcoming).

Is it likely that the communiqué significantly altered EU decision-making, and if so, what exactly would be the observable implications? To construct

our hypotheses, we draw upon theories of institutional change, theories of EU integration, and contemporary records specific to the Paris summit. When referring to 'informal' institutions and procedures, we follow the spectrum approach found in both the international relations and comparative politics literatures (Christiansen & Neuhold, 2012; Helmke & Levitsky, 2004; Lipson, 2009). The agreements governing relations between actors vary by the level of officials involved, the form of the rules, and by whether the rules are legally binding. The most formal type of agreement is thus a written, legally binding, ratifiable treaty agreed by Heads of State. Moving towards the other end of the spectrum, informal agreements exhibit some combination of being unwritten, not public, not legally binding, not ratifiable, and agreed by bureaucrats. Although admittedly they both have some features of formality – written, public, signed by Heads of State or Foreign Ministers – in the literature both the Luxembourg Compromise and the Paris communiqué have been treated as informal because they merely announce or renounce a norm. Neither is a treaty, legally binding or ratifiable, and they share the key attribute of purporting to be 'enforced outside of officially sanctioned channels' (Helmke & Levitsky, 2004, p. 725).

The two primary determinants of institutional change are the prospects of functional benefits and the bargaining process of the actors involved. Although actors may sometimes introduce informal procedures that slow down their collective decision-making in order to promote greater legitimacy, usually efficiency enhancement is the key functional driver, regardless of the normative implications (Reh, 2014, p. 70). In short, informal institutional change tends to oil the wheels of formal governance and help actors do things more quickly (Héritier, 2012, p. 342, 349). For example, in the GATT and WTO, although it unfairly marginalised the formal role of developing states, a 'relatively efficient club-like system' of rich states, centred on Green Room meetings and the Quad, evolved to replace the cumbersome process required to build majority coalitions from all the members (Narlikar, 2014). In the US, the revolving door system of lobbying arguably harms accountability and breeds corruption, but it speeds up policymaking in a complex environment (Haar, 2014). In the EU, the informal trilogue system of meetings between members of the Commission, Parliament and Council that developed in the mid-1990s produced a gain in decision-making efficiency compared to the normal, full codecision procedure, although these early agreements arguably reduced the transparency and public accountability provided by open debate (Héritier, 2012; Kleine, 2013, pp. 103–105).

However, functionality alone is not sufficient to explain institutional change since complete agreement amongst the parties is unlikely and spontaneous coordination is rare, which makes it essential to consider the bargaining process (Helmke & Levitsky, 2004, p. 730; Héritier, 2012, pp. 338–340;

Jupille et al., 2013). Change only occurs if all actors agree on a viable institutional alternative, or if the revisionist state(s) enjoys sufficient bargaining power to threaten, bribe or otherwise win agreement from their colleagues. Likewise, even broad agreement will not produce institutional change if a spoiler state enjoys relative bargaining power. A number of factors can increase an actor's bargaining power, especially a better fallback position in the case of non-agreement, a credible exit threat, or a longer time horizon.

Besides functionality and bargaining, we argue that interstitial institutional change, like policy change, also requires entrepreneurs (Mintrom, 1997). In the European integration context, this role has been most often assumed by the European Commission, though traditionally only when the proposed institutions served to push integration forward (Hodson, 2013; Pollack, 1997). Institutional entrepreneurship is critical when states are divided over a proposed change to established practices – the Commission helps keep the proposal 'alive' while states bargain over the final form of the institutional change or whether it should take place at all. However, the Commission's willingness to act as an entrepreneur is not unconstrained: notably, the prospect of success among Member States seems to be an important determinant in whether and how far the Commission agrees to agitate on behalf of a given proposal (Hodson, 2013).

In sum, we expect significant interstitial institutional change under the following conditions: when the new informal procedures increase efficiency, and when either all Member States *a priori* agree to the change, or when one or several Member States, with the help of the Commission, win support from the others, or when Member States opposed to the change lack bargaining power to prevent it. In terms of function, the Paris communiqué is a very likely case given the explicit objective of increasing efficiency. We now turn to archival research to reconstruct the negotiations and assess the breadth of agreement amongst the Member States, the bargaining involved, and the role of the Commission.

The 1974 Paris summit

Clearly there was agreement on the need to improve efficiency, and a widespread perception that decision-making was being hampered by excessive use of the de facto veto where QMV applied. The challenge was to find a mutually agreeable set of reforms and the wording to implement them. We know that the Commission had a clear and longstanding preference for a strict application of the treaty's formal voting rules that allowed for QMV. In June 1970, Commission President Jean Rey called on Member States to apply the treaty's formal voting rules more consistently (Kleine, 2013, p. 95; CEU, 1970), but at that point France [foreign minister Schumann] was opposed to renouncing the Luxembourg Compromise (CEU, 1970). Over

the next few years there were also suggestions, opposed only by France and Denmark, to make more frequent use of abstentions in the Council once a clear majority had emerged. Irish Foreign Minister Fitzgerald suggested to the Council in February 1974 that '[i]t is possible to avoid the abuse of unanimity, that is to say the application of this principle to cases which in no way concern the vital interests of a Member State' (Ortoli, 1974). By June 1974 the Council agreed that Member States would give their COREPER officials more flexible instructions to enable decisions to be taken 'within reasonable periods of time' (CEU, 1974b).

In the run-up to the Paris summit, according to Emile Noël, Secretary General of the Commission, there was agreement amongst the Heads of State to renounce 'the systematic use of unanimity' (Noël, 1975, p. 7) and the 'abusive practice of unanimity' (Noël, 1975, p. 18), but there were 'differences of view on the best formulation of wording' (Noël, 1975, p. 7). Contemporary records support Noël's interpretation. A note of 28 November 1974 by the French ministry of foreign affairs reports that 'there is an agreement among all the delegations to renounce an abusive application of the Luxembourg Compromise' (Ortoli, 1974, p. 128). But beyond a general agreement to end the 'excessive' or 'abusive' practice of unanimity – although neither 'excessive' nor 'abusive' made it into the final text – some Member States preferred the term 'relax' or 'renounce extensive use of' rather than 'renounce', some wanted to specify the exact conditions that constituted a 'vital national interest' or create a list of subjects on which to exclude unanimity, and some felt that since the Luxembourg Compromise was informal the Council could simply agree to ignore it without further negotiations (AE, 1974a, 1974b; CEU, 1974a). Italy's view was that '[a]s regards the voting system of the Council of Ministers, it would seem appropriate to resume compliance with the rules of the treaties' (CEU, 1974a). The French sought a 'gradual return to majority voting' and drafted the initial wording (see Appendix), to which Britain objected (CEU, 1974a). According to a memo prepared by the French ministry of foreign affairs, the British were unwilling to accept wording which would not include an explicit reference to the Luxembourg Compromise or the concept of 'vital interests', both of which were unacceptable to Germany (CEU, 1974a; MAE, 1974). Even though the Luxembourg Compromise was explicitly mentioned in the communiqué, in his statement to the UK Parliament immediately after the summit, Prime Minister Harold Wilson felt it necessary for domestic consumption[1] to interpret the final wording in keeping with the UK's pre-summit position:

> I can assure the House that there is no question at all – and that this was clear in the minds of all the Heads of Government – of any Member State, when important national interests are at stake, being required to set those interests aside as

> a result of a majority voting procedure. The communiqué makes it plain that each country will continue to be free to maintain our respective positions regarding the Luxembourg Compromise of 1966 … No change in the practice regarding the Luxembourg Compromise was agreed. (Hansard 16 December 1974)

As mentioned earlier, in their commentary about the Paris summit, Bulmer and Wessels do not note any serious discord amongst Member States regarding the veto question – let alone a powerful spoiler state – rather that they agreed to paragraph 6 of the communiqué (1987, p. 44). Irish foreign affairs Minister Fitzgerald said that the summit condemned the abuse of unanimity and he hoped that it would not be just wishful thinking (AE, 1974d).

As a final important factor, the Commission played an active and supportive role, helping to broker the agreement (AE, 1974c, p. 1). According to Noël, at the Paris summit the Commission sought 'above all, to obtain strict compliance with the treaties' (Noël, 1975, p. 10). The Commission President at the time, François-Xavier Ortoli, spoke positively about QMV in June 1974 during Council discussions about how to improve Council decision-making (Ortoli, 1974), was present during the summit discussions with the Heads of Government (CEU, 1974a, 1974b), and issued a positive statement about the communiqué's outcome on institutional matters (AE, 1974d).

Hypotheses

Given its functional aim, the broad agreement amongst Member States, and the support from a policy entrepreneur, the communiqué presents a very likely case of institutional change. But we expect all actors to treat such announcements strategically to pursue their own interests, so that the communiqué's expected effects depend separately on how the Commission and Council interpreted it. We draw upon integration theory to generate hypotheses about the communiqué's observable effects on the behaviour of the Commission and the Council, and on the EU's decision-making efficiency.

The Commission is a supranational entrepreneur that seeks opportunities to push European integration forward. As an agenda setter in an environment of scarce administrative resources and fragile legitimacy, the Commission has an incentive to be seen as highly active by ensuring a steady legislative output and avoiding the failure of legislative proposals (Dür et al., 2015, pp. 956–957 and cites there). One way the Commission achieves this, where plausible alternative legal bases for proposals exist, is by favouring the use of QMV since this makes their adoption easier (Jupille, 2004; Ovádek, 2021a, 2021b). As shown by the dotted feedback loop in Figure 1, the Commission would be even more likely to propose QMV once the

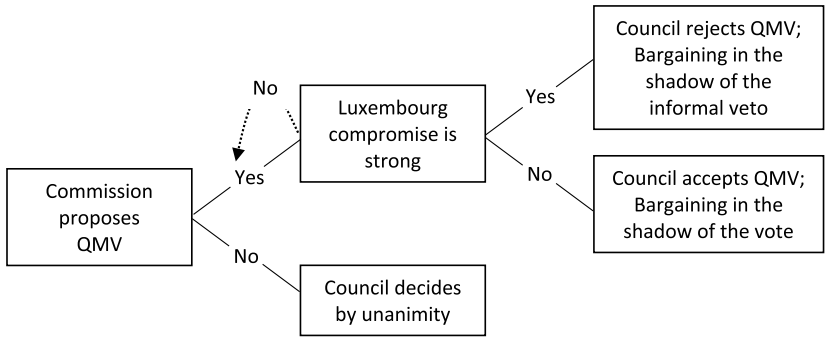

Figure 1. Expected Commission and Council behaviour.

Member States renounced the Luxembourg Compromise. But even if Member States did not actually intend to renounce the Luxembourg Compromise, the communiqué provided a resource, a window of opportunity to expand the use of QMV. In addition to any sincere belief it had in the appropriateness of QMV legal bases, we expect that the Commission strategically exploited the Paris communiqué to push for even more QMV, especially in policy areas where the applicability of QMV was plausible but previously disputed by (some) Member States. According to a detailed historical summary of Commission activities that draws on testimony by former EU officials, following the Paris summit '[t]he Commission entrusted its departments with ensuring that proposals were formulated as far as possible on a majority legal basis' (Bussière et al., 2014, p. 131). Moreover, Roy Jenkins, who held the Commission Presidency during 1977–1981, has been described as especially effective (Kassim, 2012). We should therefore observe:

> H1: The number and proportion of Commission proposals based on the treaty's QMV provisions was higher after the communiqué than before.

Regardless of whether the Commission strategically increased its use of QMV as the legal basis, we also need to consider the observable implications associated with the Council's interpretation of the communiqué. Agreement to renounce the Luxembourg Compromise implies that informal vetoes were attempted less often by lone Member States, and less readily accepted by other Member States. If so, as shown at the bottom right of Figure 1, when the Commission proposed QMV the Council would more likely accept it. If so, we should observe:

> H2: The Commission's proposed QMV legal basis was less likely to be changed to unanimity by the Council after the communiqué than before.

If there was at least a broad agreement to renounce the Luxembourg Compromise, so that informal vetoes were attempted less often, and less

readily accepted by other Member States, this should expedite decision-making and enable a broader set of legislative proposals to be agreed faster. The expectation that QMV speeds up collective decision-making by reducing transaction costs has been well established in the literature (Golub, 2007). Of course, whether we observe this effect in the aggregate depends also on how many proposals were issued under QMV provisions. Moravcsik suggests that one reason why the communiqué did not have any meaningful effects was that nearly all decisions were subject to formal unanimity (1998, pp. 311–312). If this claim is incorrect and the shadow of the vote fell on a substantial number of proposals (and controlling for the fact that decision-making will take longer for proposals subject to European Parliament consultation) we should observe:

> H3: Commission proposals based on QMV should be adopted faster following the communiqué than before.

Empirical analysis

To test our hypotheses, we adopt a mixed-method approach combining archival research with case study, medium-n and large-n analysis. The case study, on agricultural tariffs, was chosen because it seems to present a 'smoking gun' and an initial most-likely test of the communiqué's impact on legal basis disputes, in that plausible alternatives existed – such tariffs were only ever proposed under treaty articles 28 or 43 – and the communiqué was explicitly referred to by the Commission. We then examine all 28 of the cases related to agricultural tariffs – chosen to generalise from the smoking gun example in a most-likely manner – and compare patterns in the Commission's choice of, and Council's acceptance of a QMV legal basis, as well as decision-making speed, before and after the communiqué. For the large-n analysis, we build out from data on Commission proposals (Golub, 2024) and construct an original dataset of 1616 proposals made during 1973–1976. All of these analyses are based on extensive archival research: to process trace the 28 cases on agricultural tariffs, and to code the proposed and adopted legal basis of each proposal as well as the applicable voting rules and whether the European Parliament was consulted.

Case study: customs duties on agricultural products

On 14 April 1975, the Commission submitted a proposal for a regulation based on Article 43 to temporarily suspend the autonomous duties in the Common Customs Tariff on a number of agricultural products (COM (75)0153) in order to respond to inadequate production within the

Community. For many years there had been a disagreement between the Commission and most Member States regarding the appropriate legal basis for the unilateral (i.e., 'autonomous', as opposed to bi- or multilateral) opening of quotas and the unilateral suspension of common customs tariffs on agricultural products. The Commission argued that these proposals should be based on Article 43 of the treaty and thus QMV, whereas the Council always deemed Article 28 appropriate. Under Article 28 unanimity was almost always required (Mennens, 1967, p. 89 and details in Appendix).

On 16 May 1975, Deputy Secretary General Klaus Meyer circulated a memo to other members of the Commission that explicitly linked the progress of this proposal to the Paris communiqué (EC, 1975a).

> A new factor has now been introduced by subsection 6 of the Paris Communiqué, to the effect that unanimity is no longer to be sought on all matters. The Council's regular practice of also citing Article 28 conflicts with the prospect thus opened up. (EC, 1975a, p. 1)

According to Meyer, the Commission's choice of Article 43 was likely to hold up because of the communiqué, and thus QMV would have a significant impact on the final outcome of the negotiations. In Meyer's telling, Germany and the Netherlands supported the Commission's choice of Article 43, whereas the UK favoured Article 28. In terms of policy substance, Ireland was strongly opposed to the proposed tariff reductions on certain fishery products, and Italy was at least somewhat reluctant on white beans and bitter oranges. Isolated and facing a potential vote, Ireland softened its demands on fish products so that the proposal could be adopted. In Meyer's words,

> [T]he Irish Delegation was left in a minority of one against strong urging from the other Member States in line with the Commission proposal. This being so, the Irish Representative did not rule out the possibility of Ireland's agreeing to intermediate compromise arrangements capable of securing unanimity (by adjusting the rate of the suspension) … The prospect of a vote … served to expedite agreement. (EC, 1975a, p. 2)

However, process tracing this case to its conclusion using archival records (CEU, 1975a, 1975b; EC, 1975b) indicates that the communiqué did not alter decision-making. At the COREPER working party on 23–24 April 1975 the Netherlands, Belgium, and Ireland supported the Commission's choice of Article 43 whereas the UK and France wanted Article 28. The other four Member States – including Germany – did not pick a side. Member States were also divided on how much to suspend tariff duties. There was unanimous support for various levels of suspensions on a wide range of agricultural products, but Ireland strongly opposed on at least six items – shrimps and prawn, crawfish tails, herrings, fresh salmon, salted salmon, mackerel, and

possibly canned salmon (but the record is silent) – whereas Italy opposed on white beans and bitter/Seville oranges. By 21 May Ireland had offered to compromise on its objections to fresh salmon, salted salmon, and crawfish tails (the record is silent on shrimps and prawns) but held firm on mackerel and herring (the record is silent on canned salmon). Italy expressed willingness to reconsider its position on white beans but held firm on oranges. The Commission then dropped oranges from the proposal despite Dutch and British objections. On 30 May, COREPER suggested that the Council adopt the proposal under Article 28 and include in the minutes that the Commission preferred Article 43. The Netherlands declared that it still would have preferred Article 43 but acceded to Article 28 because of the position taken by other Member States, and in order to reach a quick agreement on the proposal. It also declared it regretful that the Commission had withdrawn the tariff suspension on oranges. After the Commission dropped its proposed tariff reduction for canned salmon, likely due to Irish demands (the record is silent), on 16 June the Council agreed the proposal under Article 28 and set the following duties, including those for mackerel and herring (Table 1):

Table 1. Tariff rates in COM(1975)0153 and Regulation 1532/75.

Product	Proposed	Adopted	Change (likely concession)
Mackerel	12%	15%	+3 (concession to Ireland)
Salmon (fresh)	0%	0%	/
Salmon (salted or brine)	4%	4%	/
Crawfish tails	10%	10%	/
Oranges (bitter or Seville)	8%	dropped	dropped (concession to Italy)
Beans (dried white)	0%	0%	/
Herrings	8%	12%	+4 (concession to Ireland)
Shrimps and prawns	10%	10%	/
Piked dogfish	0%	0%	/
Black halibut	0%	0%	/
Pilchards	8%	8%	/
Sturgeons	8%	8%	/
Roes	0%	0%	/
Anchovies	0%	0%	/
Sprats	0%	0%	/
Saithe	7%	7%	/
Fish roe	0%	0%	/
Oysters	0%	0%	/
Chantarelles	4%	4%	/
Dates	0%	0%	/
Cashew nuts	0%	0%	/
Rose-hips	0%	0%	/
Bilberries	4%	4%	/
Cranberries	0%	0%	/
Paprika	0%	0%	/
Saffron	10%	10%	/
Salmon (canned)	5%	dropped	dropped (concession to Ireland)
Crabs	0%	0%	/
Fish or marine mammal solubles	2%	2%	/
Sardines	0%	0%	/
Natural Christmas trees	0%	0%	/

This case shows that the Commission was conscious of the window of opportunity opened up by the Paris communiqué, was trying to take advantage of it in a manner consistent with H1 and expected results in line with H2. But overall the communiqué appears to have affected only the Commission's behaviour, not the Council's. Contrary to H2, the Council was not willing to accept the Commission's choice of legal basis.

Medium-N analysis

Having established proof of concept, in that the Commission was aware of the communiqué and anticipated it would have an impact on EU decision-making, we now expand on the case study and examine an additional 27 proposals for agricultural tariffs. All of these 28 cases arguably involved a choice between Article 28 and Article 43 as the legal basis. We expect to find that, after the communiqué's publication, the Commission frequently mentioned it during the negotiation process, that the Commission make more use of Article 43 than Article 28 (which would support H1), that the Commission's choice of Article 43 was more readily accepted by the Council (which would support H2), and that proposals made under QMV (Article 43) were adopted more quickly than before (H3).

The main results are shown in Table 2. Contrary to expectations, we found no other mentions of the communiqué by the Commission or the Council throughout the negotiations on any of the proposals, apart from COM (1975)0153 discussed earlier. Moreover, none of our hypotheses find support. If anything, in the two years after the communiqué the Commission made less ambitious use of QMV, not more, and when it did propose QMV the Council was just as likely to alter the legal basis to formal unanimity. Pre-Paris, the Commission based 77% (10/13) of agricultural tariff proposals on Article 43, whereas post-Paris the proportion fell to 67% (10/15). Pre-Paris, the Council altered all but one of the eleven agricultural tariff proposals based on QMV to unanimity. Post-Paris the Council shifted virtually the same proportion to unanimity (9/10). Nor did decision-making on agricultural tariffs speed up after the communiqué. For the 11 proposals issued under Article 43 before the communiqué, the average number of days until adoption was 93 (the median was 68). For the 8 proposals issued under Article 43 after the communiqué the average was 100 days (the median was 96).

Large-N analysis

Even if the agricultural tariff cases are most-likely situations to observe the impact of the communiqué, they might not be representative of EU decision-making. Thus we need a much larger sample size to test our hypotheses, especially H3 on decision-making speed. We first extracted the 2606

Table 2. Proposed and adopted legal basis for agricultural tariffs in chronological order.

	Adopted	
Proposed	Article 28	Article 43
Article 28	COM(1973)0491 potatoes	
	COUNCIL(R/1423/74) mackerel	
	---------- **Paris Communiqué** ----------	
	COM(1976)0014 potatoes	
	COM(1976)0114 new potatoes	
	COUNCIL(R/1908/1/76) potatoes	
	COM(1976)0485 seed potatoes	
	COM(1976)0636 potatoes	
Article 43	COM(1973)0213-02 various fruits and vegetables	COM(1973)0213-01 various fruits and vegetables
	COM(1973)0761 various agricultural duties	
	COM(1973)1257 almonds	
	COM(1973)1396 eels	
	COM(1973)1632 eels	
	COM(1973)1856 bitter/Seville oranges, saffron	
	COM(1974)0567 various agricultural products	
	COM(1974)0660 eels	
	COM(1974)1083 dried grapes	
	COM(1974)1698 various agricultural products	
	---------- **Paris Communiqué** ----------	
	COM(1975)0153 various agricultural products	COM(1975)0650-01 asparagus foliage
	COM(1975)0231 eels	
	COM(1975)0275 dried grapes	
	COM(1975)0515 various agricultural products	
	COM(1976)0164 various agricultural products	
	COM(1976)0299 dried grapes	
	COM(1976)0382 eels	
	COM(1976)0387 eels	
	COM(1976)0453 mushrooms	

proposals in EUPROPS (Golub, 2024) that were made during the period 1 January 1973 to 31 December 1976, i.e., two years before and two years after the communiqué. Of these, we retained the 1616 which were based solely on treaty articles and tracked them until 1 January 1981 at which point they are treated as right-censored. Our sampling strategy aims to include proposals that were important and controversial and exclude those that were more routine or trivial. Our focus on 1 January 1973 - 1 January 1981 avoids analytical complications arising from either enlargement of the EU or a formal treaty change.[2] For each proposal we coded the applicable voting rule as either unanimity or QMV according to the proposed legal basis. We treat the rare simple majority case as QMV for simplicity. To code the role of the EP we examined the initial legal basis in conjunction with information from Council archives. Archival research was essential because in many cases (e.g., Article 100) consultation of the EP is only mandatory when the proposal would require the amendment of national legislation, and in others where the proposal would entail significant impact on national systems the Council agreed to the Commission's request for EP consultation even though it was not mandatory. When we could not determine the applicable voting rule or EP role we coded them as ambiguous. The data and replication commands are available on the Harvard Dataverse and on the journal's website as supplemental material.

Before testing our hypotheses, we describe important characteristics of the data. As shown in Figure 2, 785 of the proposals were made before the communiqué (including five that were proposed on 10 December 1974)

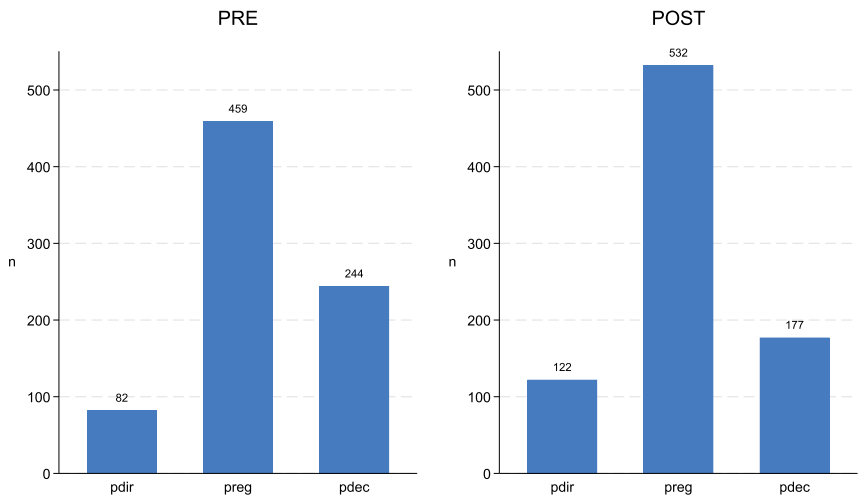

Figure 2. Number of proposals by type, pre- v. post-communiqué.

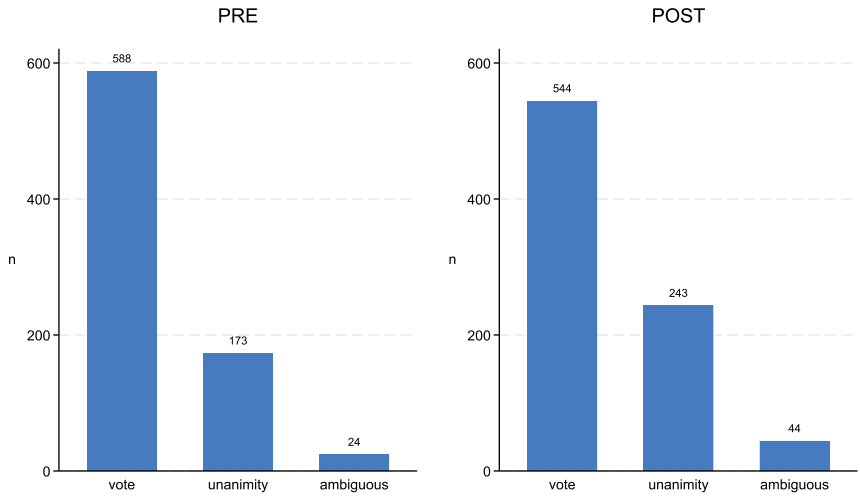

Figure 3. Number of proposals by voting rule, pre- v. post-communiqué.

and 831 were made after. Of the 1616 proposals, 204 were for Directives (pdirs), 991 were for Regulations (pregs) and 421 were for Decisions (pdecs).

Our first hypothesis (H1) predicted that the number and proportion of proposals subject to QMV would be higher after the communiqué than before. As shown in Figures 3–5, neither of these predictions enjoys empirical support.

The number of proposals subject to QMV went down, not up. Likewise, the proportion of proposals subject to QMV went down not up, and this occurred

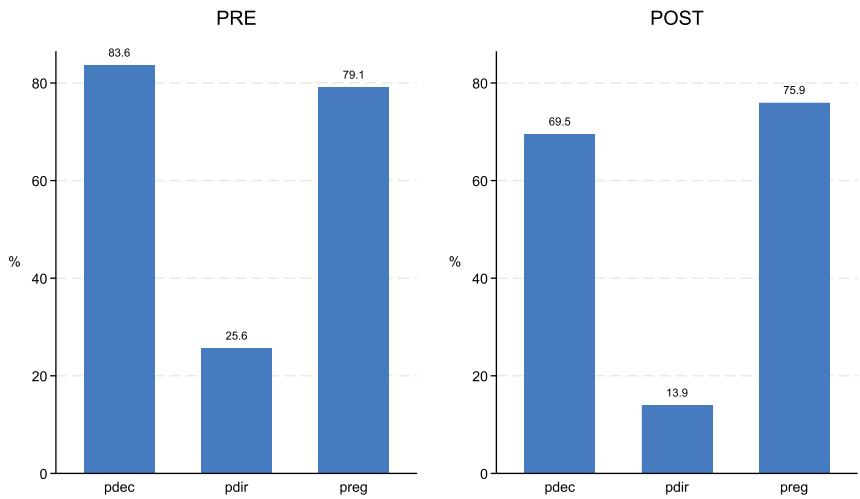

Figure 4. Proportion of proposals subject to QMV by type, pre- v. post-communiqué.

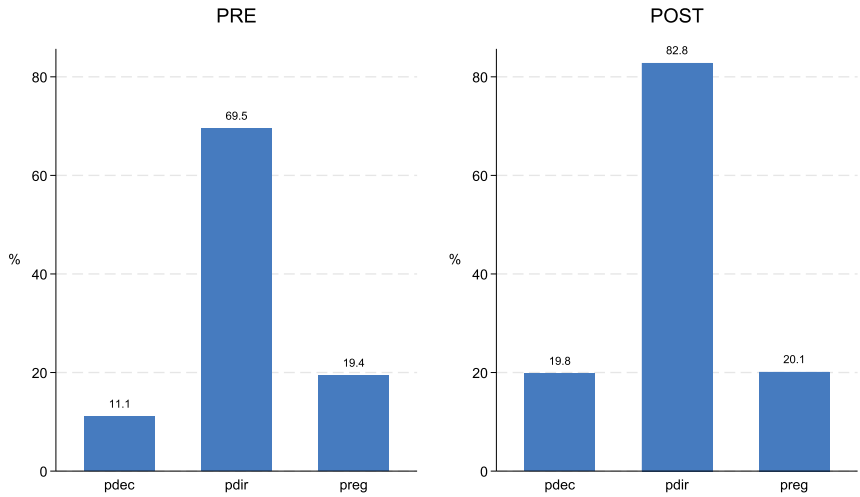

Figure 5. Proportion of proposals subject to unanimity, by type, pre- v. post-communiqué.

across all three instrument types. Even though the communiqué provided the Commission with a window of opportunity to push for more QMV, the proportion of proposals subject to unanimity went up, not down, for all three instrument types.

To test H3, we conduct a survival analysis. If the Luxembourg Compromise rendered QMV ineffective, and the communiqué renounced it, we should observe that prior to the communiqué proposals subject to formal QMV were adopted at the same rate as those subject to formal unanimity, whereas after the communiqué the hazard rate under formal QMV should be significantly higher than under unanimity. In order to isolate the effect of the communiqué, we implement the same sort of design used to study the effects of treaty change on EU decision-making speed (Golub, 2007), and the effects of legal status on immigrant crime (Mastrobouni & Pinnoti, 2015). This design has several advantages. First, by treating pre-communiqué unanimity as the base category and including one covariate to capture the pre/post distinction, another to capture the QMV/unanimity distinction, and an interaction between these two covariates we can directly compare the difference between QMV and unanimity decision-making before the communiqué to the difference after the communiqué. Second, by treating each of these as a time varying covariate we make full use of the information about the 189 proposals that were proposed before the communiqué but adopted after it. Third, we fit a Cox model in order to avoid imposing any assumptions about the shape of the baseline hazard, since we have no reason to suspect that, as Council negotiations drag on, proposals are inherently ever more likely, or indeed ever less likely to be adopted. Fourth, we follow best practice

by testing for and correcting violations of the Cox model's proportional hazards assumption by incorporating interactions with the natural log of survival time. This not only strengthens our confidence in the results but allows us to draw nuanced inferences about how the effect of each covariate increases or decreases over the course of Council negotiations. As with regression techniques, to assess the effect of a covariate it is essential to interpret the constituent term in conjunction with the interaction term. We fit four models – one that pools all three instrument types, then one for each type – because due to their relative importance proposals for Directives take much longer to negotiate than the other instruments, but just including a dummy ignores the possibility that the effect of each covariate differs across instrument types.

Across all four models shown in Table 3 the results are entirely inconsistent with H3. Note that positive coefficients indicate a higher hazard rate, thus accelerated decision-making, whereas negative coefficients denote a lower hazard rate thus slower decision-making. In models one, three, and four, the statistical insignificance of the QMV*Post-Paris term indicates that QMV had the same effect on the rate of adoption after the communiqué as it did before the communiqué. If anything, QMV decision-making was slightly slower for Directives post-Paris than it was before, although the coefficient only approaches conventional levels of statistical significance.

A striking finding from our quantitative analysis is that even if scholars are correct that the communiqué had no effects on EU decision-making, they are right for the entirely wrong reasons. Contrary to Moravcsik's claim, it is certainly not the case that very few proposals in the 1970s were subject to

Table 3. Cox models of EU decision-making speed.

	1	2	3	4
QMV	−.343	1.62***	.359*	.458^{+}
	(.263)	(.456)	(.139)	(.277)
QMV*ln(_t)	.196**			
	(.057)			
Post-Paris	.059	.438	−.082	.129
	(.133)	(.384)	(.161)	(.313)
QMV*Post-Paris	−.154	−.853^{+}	−.051	−.173
	(.146)	(.516)	(.176)	(.329)
Consultation	−3.62***	−10.85***	−3.32***	−4.37***
	(.330)	(2.71)	(.392)	(.878)
Consultation*ln(_t)	.662***	2.01**	.587***	.766***
	(.072)	(.578)	(.090)	(.169)
Directive	−3.99***			
	(.623)			
Directive*ln(_t)	.561***			
	(.109)			
	All	Directives	Regulations	Decisions
	$n = 1548$	$n = 196$	$n = 963$	$n = 389$
Log-likelihood	−8957.2	−648.4	−5331.0	−1852.9

Notes: Each model reports estimated coefficients with standard errors in parentheses.
***$p < .001$, **$p < .01$, *$p < .05$, $^{+}p < .1$.

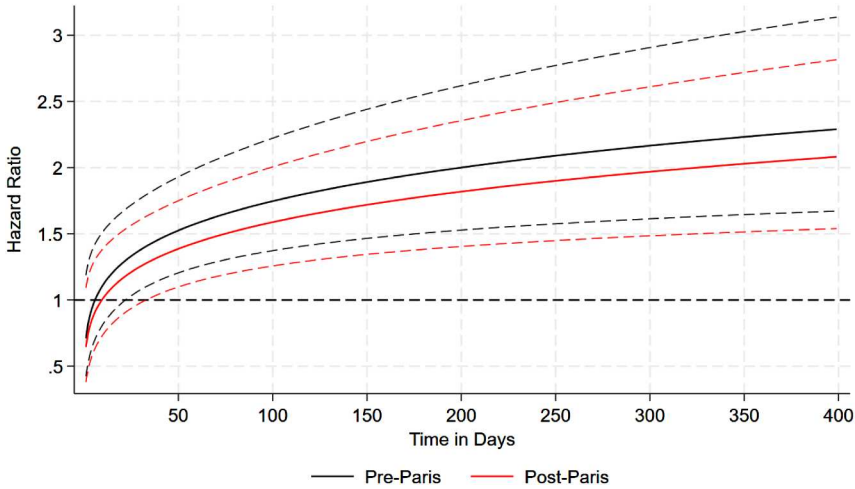

Figure 6. The effect of formal QMV on EU decision-making speed, based on estimates from model 1.

formal QMV. In fact, the shadow of the vote covered roughly 70% of all proposals, and it even applied to roughly 20% of all Directives. Nor was the communiqué ineffective because informal procedures and a de facto 'veto culture' paralysed EU decision-making before as well as after the 1974 summit, as a vast literature claims explicitly or implicitly. Our findings suggest that the effects of the Luxembourg Compromise, if there were any, have been wildly exaggerated, and that QMV was always effective, so that in 1974 there was nothing to renounce. Figure 6 illustrates how QMV significantly expedited EU decision-making in the pre-Paris era, how the effect on a proposal's likely adoption grew as negotiations continued, and how these dynamics were virtually identical post-Paris.

Based on model 1 which pools all three instrument types, during the pre-Paris period, after three weeks QMV raised the hazard rate by nearly 30%, and this effect grew to 70% by three months and to 125% by 12 months. In the disaggregated models the effect of QMV does not vary with the length of negotiations or across time periods but does differ across instrument type. In the pre-Paris era, QMV raised the hazard rate for Directives by a whopping 400%. In the post-Paris period, the corresponding figure was 230%, although as mentioned above the decrease was not significant at $p < .05$. For Regulations the effect of QMV on the hazard rate in the two periods was a rise of 43% and 25% respectively. For Decisions, QMV increased the hazard rate by 58%, but this effect is only marginally significant. Besides formal unanimity, our results show that consultation of the EP and the use of Directives as an instrument both significantly slow down decision-making, although the effect of each of these covariates steadily wears off as negotiations

progress. All of our findings are robust to the inclusion of additional controls for preference heterogeneity in the Council, both on a left-right and pro-anti EU spectrum, variables which have been used in several previous survival studies (see Appendix Table A2).

Discussion

A huge body of literature suggests explicitly or implicitly that the 1974 Paris summit announcement to renounce the famous Luxembourg Compromise of 1966 had no effect because the Luxembourg Compromise and its consensus norm – a de facto 'veto culture' – persisted at least into the 1980s. Allegedly the Treaty of Rome's qualified majority voting provisions were inoperative before the summit and remained inoperative after the summit, thereby paralysing EU decision-making. Existing accounts thus accommodate the twin claims that the first of these informal institutional changes had enormous effects whereas the second had none, despite the theoretical conditions for change being more ripe in 1974 than 1966. These claims rest on scant and often contradictory recollections of practitioners about the frequency of QMV, which in any case is not the best metric to gauge the effects of formal voting rules. The few systematic studies that have examined the 'shadow of the vote' reach conclusions that run counter to the dominant view, but these studies have only considered one type of legislative instrument, and more importantly they did not directly examine the effects of the Paris summit.

We develop and test hypotheses about the expected effects of the Paris communiqué on EU decision-making. The circumstances of the communiqué were consistent with the theoretical conditions under which we expect informal institutional change to take place: the communiqué aimed at increasing decision-making efficiency, there was widespread agreement amongst the Member States, and the outcome was supported by the Commission as a policy entrepreneur. As a result, we expected to observe predictable changes in Commission and Council behaviour that reflected a renewed importance of QMV. To test our hypotheses, we combined a case study with medium-N and large-N analysis. Each step required extensive archival research to code the data and process trace the proposals.

Despite expectations, across all our tests we found no evidence that the Paris communiqué constituted a significant change in terms of EU decision-making. Comparing decision-making pre-Paris to post-Paris, the Commission did not – beyond one initial attempt – increase systematically the number or proportion of proposals subject to QMV. Nor did the Council become more receptive to the Commission's choice of QMV as the legal basis for proposals. And the effect of QMV on decision-making speed was the same after the communiqué as it was before the communiqué.

Although superficially our null finding (no effect) appears to confirm conventional wisdom, it constitutes further evidence against prevailing 'veto culture' and 'consensus' narratives that privilege informal procedures, and it challenges existing theories of institutions and institutional change. Whereas the standard view is that QMV was rendered inoperative before Paris and remained inoperative after, we found that the shadow of the vote operated before and remained operative after. Formal QMV rules significantly expedited decision-making not just for Directives, but also for Regulations and Decisions.

More generally, our results indicate that formal rules matter more, and are 'stickier' (Keohane, 1984; Pierson, 2000) than often portrayed in the EU literature, remaining resilient 'even in the wake of deep political shocks' (Jupille et al., 2013, p. 13). States carefully crafted formal QMV procedures to make cooperation easier and faster in particular areas (Moravcsik, 1998, p. 75, 152–158), and apparently it did, despite resistance from Charles de Gaulle and the changing constellation of domestic actors holding office in each state. The flipside of recognising greater stickiness is a need to revise existing theoretical assumptions about informal institutional change. In our view, theories that accommodate the Luxembourg Compromise as an informal rollback of previously agreed treaty provisions are unsound. Instead, according to what we suggest are the key drivers, the Luxembourg Compromise should be treated theoretically as a highly unlikely case of informal institutional change: functionally it *decreased* efficiency, nobody has suggested there was widespread agreement to gut the original treaty – rather it was a 'gentleman's disagreement' (Ludlow, 2006, p. 101) or an 'agreement to disagree' (Moravcsik, 1998, p. 229; Parsons, 2003, p. 141) – France had no credible exit threat and thus no bargaining power to bully other Member States into abandoning QMV (Newhouse, 1967, p. 147, 161; Moravcsik, 1998, pp. 180–181, 194; Ludlow, 2006, p. 84, 91), and the Commission did not act as an institutional entrepreneur for this disintegrationist cause.

Our argument helps explain why such a likely case of informal institutional change as the Paris summit did not produce the expected results. If the Luxembourg Compromise was not actually a watershed, and it did not neutralise the effects of QMV, then there was little or nothing to reverse at the Paris summit. Just how little? According to a qualitative analysis prepared by the Commission in anticipation of the summit, there were only five QMV proposals at the time which were being improperly blocked by one or several Member States' veto threats (Ortoli, 1974).

Perhaps more puzzling than the communiqué's non-effect on Council behaviour is the Commission's limited attempt to exploit the window of opportunity it opened. Under the parsimonious version of entrepreneurship theory, we would expect the Commission to invest significant resources into leveraging the communiqué as a firm commitment towards expanding QMV

and limiting national vetoes in decision-making. However, we find only initial acknowledgement of this possible strategy in Commission and Council archives, and beyond that just the Commission's rather timid attempt in April 1978 to nudge the Council by reminding it about the Paris communiqué (EC, 1978, pp. 13–14). A possible explanation for the Commission's lack of entrepreneurship is that upon encountering resistance to its preferred QMV legal basis, for example on agricultural tariffs, it presumed that insistence on the communiqué would be fruitless, supporting Hodson's (2013) argument about the Commission being conscious of Member States' likely support for its initiatives.

Our analysis invites further research along several lines. Although methodologically challenging, there is clearly a need to explain inconsistencies between various accounts of how formal QMV affected EU decision-making prior to the 1980s, as well as the apparent disconnect between perceptions and actual practice. It is striking how the Commission's yearly reports insist that the communiqué dramatically increased the use of QMV, whereas many EU officials recollect a near total absence or only a slight increase in the use of QMV prior to the mid-1980s. Likewise, in the 1970s there was undeniably a widespread perception amongst Member States, shared by the Commission, that formal QMV rules were not having much effect, that the de facto veto was being abused, and that steps should be taken to increase decision-making efficiency. Yet quantitative evidence indicates that in practice the shadow of the vote produced by formal QMV had an enormous effect in expediting decision-making, and at least some qualitative evidence indicates that almost no proposals were blocked due to a de facto veto.

We also see scope for more research on the dynamics of Commission entrepreneurship, especially in the initial formative decades of European integration. Would the Commission have pursued QMV opportunities created by the Paris summit with more determination under different leadership? It has been argued that 'for much of its history the Commission was a deeply fragmented institution' and that its President 'had few resources and limited influence over policy' (Kassim et al., 2017, p. 657). The emergence of 'presidentialisation' of the Commission under Jacques Delors contributed to its effectiveness in the late 1980s (Ross, 1995) and was further reinforced since 2004 by treaty reforms (Kassim et al., 2017). As a counterfactual, it is tempting to ask: what would Delors have done with the Paris communiqué? Beyond personal leadership, little is known about the importance of bureaucratic organisation in the 1960s and 1970s. Finally, we hope our paper encourages the community of scholars to build further on the EUPROPS dataset and undertake the heavy archival lifting required to extend the analysis back into the 1960s, ideally to the pre-Luxembourg Compromise period, and through process tracing of additional case studies and areas of legal basis disputes.

Notes

1. Wilson's comments should be seen in the context of partisan infighting over the Labour party's position on holding a referendum on EEC membership and Europe more broadly (Aqui, 2020). Wilson had reason to play down the importance of the Paris communiqué in a bid to calm the Labour Eurosceptics and narrow the divide within his own party in the run-up to the referendum on UK membership in June 1975.
2. Although it only affects a handful of cases in our dataset, the 22 July 1975 Treaty of Brussels made EP consultation mandatory for proposals based on Article 209.

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Data availability statement

The data and replication commands that support the findings of this study will be made available on the Harvard Dataverse and on the journal's website as supplemental material.

Disclosure statement

No potential conflict of interest was reported by the author(s).

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