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What develops the Process of Constitution-Making within the Framework of a Convention?

A Comparative Analysis of the European and American Conventions

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List of Abbreviations and Acronyms

BEPG	Broad Economic Policy Guidelines
CFI	Center for Inquiry
CFSP	Common Foreign and Security Policy
EAC	External Action Council
EC	European Community
ECB	European Central Bank
ECHR	European Court of Human Rights
EJC	European Court of Justice
ESDP	European Security and Defense Policy
EU	European Union
HR	High Representative
IGC	Intergovernmental Conference
JHA	Justice and Home Affairs
MEP	Members of the European Parliament
MS	Member States
PSC	Police and Security Committee
QMV	Quality Majority Voting

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The Analytical Model

Preface

When I started the work on this master thesis I certainly did not know what I was setting out on. It is with great humbleness that I now, finally, hand in my master thesis, although I know that it should have been done several years ago.

All though it has been a long period, and I have worked a full time job alongside with the writing of my thesis, I must admit that it has been educational and interesting.

My thanks go out to Helge Hernes for believing in me again, and gave me the opportunity to hand in my master thesis. I also want to thank Jarle Trondal for giving me some smart inputs on the theoretical part and the design of the assignment. Last but not least I have to thank Anna Montgomery for correcting my English.

Kristiansand, November, 2013   Liv Austad Iversen

1. Introduction

"A Convention is an agreement between states for regulation of matters affecting all of them. It is an assembly of members meeting to agree upon a common purpose to formulate a platform of principles and procedures accepted as true or correct by the convention members." (http://www.merriam-webster.com/dictionary/convention, my translations).

The European Union (EU) started out as a peace project in the 1950s. It had reached an inner market reform and a political vision for a stronger united Union at the end of the 1980s. European political leaders saw a strong political union implemented in the already existing common marked. A number of international events, such as the collapse of The Soviet Union and the fall of the Berlin Wall, changed the political agenda on the European continent and created a new paradigm for cooperation and political perspectives. This new political paradigm could be seen in the context of the need for a stronger and better structured political platform within the EU.

In this new paradigm European politicians established a constitutional convention to discuss the dilemmas and crisis facing the Union, both internal and external. The purpose of the convention was new thinking around the idea of the rule of law, democracy, an open and common market, better structured institutions, and Human Rights. In the breaking point of bureaucratic management the Member States (MS) and the politicians on the supragovernmental level of the Union saw the need of new options concerning democracy, federalism, transparency, institutions and other stabilization processes for the European Union.

In this thesis, I will discuss the conventional work-process in the European Constitutional Convention in a comparative framework with the American Constitutional Convention. I will discuss how the pre-historical events that led to the establishment of the conventions influenced the conventional work-processes, how the organizational structure of the conventions pushed the work-processes forward, and how the members of the conventions and their contributions had strong impact on the conventional actuation. In order to examine these conventional processes in a comparative framework, I will discuss and elaborate on:

1) How the pre-historical events that led to the establishment of a constitutional convention forged a necessity to discuss a stronger political platform and therefore set the agenda for the content of constitution-making processes in the first round.

2) How the conventional structure and organization in its number of members, the members diversity, and the impact of the working-groups pushed the progress of constitution-making forward.

3) How the strong impact of the members contributions in oral speeches or written proposals to different issues addressed in the work of the convention, developed the progress of the conventional work and the necessary compromises in the constitution-making processes.

Plan of the Thesis

In the next chapter 2, I will give a historical introduction to the pre-historical events that led to the establishment of a constitutional convention. From the Unions start as a peace project in the 1950s to the establishment of a convention, as the European Union was entering the 21st century. Furthermore I will give an introduction to a comparative framework of the European and American continents. My theoretical approach of path-dependence, organizational structure, and of leadership theory will be presented to set the theoretical framework for the thesis.

In chapter 3 the comparative methodological approach will be presented together with the analytical model and the plan for the thesis.

In chapter 4 the discussion is concentrated on the pre-historical events that led to the establishment of the European and American conventions. In a comparative framework of similarities and differences between the two conventions, the aim is to show how these events had impact on the conventional work, in accordance with the theory of path-dependence. This leads to the analytical model, which is based on an assumption that the pre-historical events prior to the conventions had effects on how the conventions proceeded in their work.

In chapter 5 I argue that the organizational structure in both conventions is the basis for how the conventional work-processes will proceed, and how the work will progress in the direction set through the declaration at Laeken to prepare for the upcoming Intergovernmental Conference (IGC) and the mandate given in Annapolis the revise the Articles of

Confederation. The main units in this chapter are the composition of the representatives in the conventions, concerning their background, how they proceed, and how they gather in formal and informal group-positions. This will be seen in a theoretical perspective of organizational structure. Further, how formal working-groups are established and their impact on the conventional processes, which will be elaborated on by discussions of the impact of working-groups within organizations.

In chapter 6 I analyze the introduction of different contributions from political and administrative representatives in the conventions, and how some of these contributions influenced and developed the convention-processes. The analysis show how these contributions steered the work of the convention in a certain direction and how political leadership matter for the progress of conventional work. The theoretical framework of leadership theory, which is presented in chapter 2, will be the context of these discussions.

In the analysis of the independent variables affecting the dependent variable in the context of similarities and differences between the two conventions, and within the framework of the theoretical approaches of path-dependence, organizational structure and leadership, chapter 7 will be the concluding chapter. The chapter will conclude on how the independent variables affected the process of the conventions, and how the two conventions shared similarities and differences in this context.

2. Historical Introduction and Theoretical Approach

In this chapter I give a historical introduction on the evolving happenings on the European and American continent, which had impact on the establishment of the two constitutional conventions. The historical introduction will be used to present aspects of the internal and external political contexts of the continents. This, to provide a clearer understanding for the reasons of the establishment of the conventions. Further, I will elaborate a theoretical framework. This framework will present theoretical approaches within the areas of path-dependence, organizational structure and organizational leadership theories.

Historical Introduction

For about 20 years ago the plan was clear, Europe was to get its inner core of countries, which looked like each other and represented a common future both economically and politically. What started out as a peace project in the 1905s had reached an inner market reform and a

political vision for a stronger Union at the end of the 1980s. European political leaders saw a strong political Union implemented in the already existing common marked. But the progress of history made its impact on the European continent. The Soviet Union collapsed, they tore down the Berlin Wall, and a grand reunion wrote new history for the German population. These international events changed the political agenda on the European continent and created a new paradigm for cooperation and political perspectives. In the big challenge it was to expand the Union, they simultaneously created a process to create a stronger political platform, where implementing countries, create well-functioning institutions, and give the common market one currency, was the main goal. This new trend showed a growing disconnection between the discussions in the Member States and on the supragovernmental level of the Union. The market was common, but the political context for the peoples was still strongly national. European political leaders saw the need of stronger and better structured institutions on the supragovernmental level. Many of them shared the view that the Treaty reforms lacked the impact to actually able the Supragovernmental level to meet, implement and deal with issues facing the Union in a new paradigm. In this new paradigm, with the new challenges in the areas of the rule of law, democracy, a more open and common market, and better structured institutions, politicians established a constitutional convention to discuss the internal dilemmas facing the Union. This constitutional convention was also to take into account the external crisis facing the European continent, like cross-border crime, terrorism and the problems around asylum seekers.

Constitutional politics within the European Union had proceeded through the mechanisms of the Intergovernmental Conference (IGC) and from the Rome Treaty to the Treaty of Nice. The IGC-model made sure that the national governments were able to maintain tight control over outcomes and negotiations within constitutional politics, and therefore, in many circumstances made the IGC-model unfit for democratic constitutional-making processes within the European Union. The short-coming of the IGC-model were two-folded. Although the procedure produced pay-offs to all actors involved, it created a large gap between the insiders and the respective citizenry, a gap that several times had created deadlocks in the ratification processes. Because of the reactions from the public and the political leaders to the Nice Treaty, this was decisive in persuading European leaders to come up with a method that fed the democratic deficit in the broadest sense of the term, and the Heads of State turned to the convention method as a device to circumvent such deadlocks of IGCs. The Nice negotiations, in particular, cased doubt on the capacity of 'top-level' negotiators defending

national interests and guided only by strategic considerations to settle the kind of framework issues that defined the fundamental design of the EU. In comparison with the American case, both continents faced failings in their existing laws on decision-making, and change was needed to avoid deadlock in the decision-making procedures and to think new in the fundamental design. But within the European context it was more a failing of the decision-making model, as the American continent faced serious crisis in matter of surviving as one nation. Under the Articles of Confederation the American central government was given few means to enforce the limited powers it was granted, and could only function as long as it held the goodwill of the states. The central government only had powers in the field of foreign affairs, and its strongest lack was its ability to tax foreign or domestic commerce. But when the American treasury was empty and debts to foreign governments and to own citizens could not be paid, the days of government under the Articles of Confederation were numbered. A political disorder on the highest levels had reached critical proportions. The Articles of Confederation that Americans had established as their first national government law grew more impotent and more incompetent with every passing day. The nation was one the verge of self-destruction, or of simply fading away. In this context the Confederation issued a resolve on the opinion of Congress, and they decided that a convention should be established to reform the Articles of Confederation.

When the IGC-model ended in a deadlock in the discussions over the Treaty of Nice the European Union was ready for reformation, not only in its choice for a new decision-making model, but also in the Unions legal and political structure. When the European Council met at Laeken in December 2001 they adopted a Declaration on the future of the European Union, which was a document that listed four main themes: a better division and definition of competences; simplification of the Union's instruments; more democracy, transparency and efficiency; and the need for a Constitution for European citizens. But the Laeken Declaration did not stop there. It opted for efficient guidelines in the name of appointing the Commission President; how to strengthen the role of the European Parliament; how to strengthen the co-decision procedure; and a better way to elect the members of the Parliament. These guidelines were agreed for the establishment of a convention to deal with substantial institutional and constitutional matters. In addition, the tasks of the convention were to prepare the way for the next IGC in 2004 and to work on the Declarations four pinpointed questions: the role of the national parliaments; the simplification of the treaties; the status of the Charter of Fundamental Rights; and more precise delimitation of powers between the EU and the

Member States. The convention was established as a preparatory body with the task of forging one or several proposals for the forthcoming IGC. America faced the same. Through the persistence and skilled manoeuvring of a few men during the meetings held in Annapolis, delegates were sent to convene at Philadelphia on the second of May 1787 to reform the Articles of Confederation. Even though some of the delegates already had written plans on how to create a new central government for the American continent, no one could image the final result of the Philadelphia Convention. But, in Europe as in the USA, the rejection of the status quo quickly convinced the delegates that they had to go beyond their original mandates. The Laeken Declaration of 2001, whereby the European Council convened the Convention on the Future of Europe, specified that the latter's role would be limited to tackling a list of questions and to draw up a final document that would include and explain the various options, specify their support, or make recommendations in the event of a consensus. The possibility of a constitution was merely invited to consider its potential advantages and disadvantages (Jabko and Parsons, 2005: 105-123). The democratic credentials of this idea were weak. The convention-idea was not carried forward by a strong popular movement or a pan-European movement, which is characteristic of constitutional moments. Neither was there a process of obtaining a popular mandate for a European Constitution through election or other direct consultation (Fossum, 2003). Likewise, when recommending to the Continental Congress the convocation of delegates from the thirteen founding states, the Annapolis Convention had mentioned only one issue, that of interstate trade. By accepting this suggestion, the Congress had taken care to specify that the only task explicitly conferred upon the Philadelphia Convention was to revise the Articles of Confederation, and that the result of its work should be ratified by every state (Jabko and Parsons, 2005: 105-123).

The Theoretical Framework

Theories help us describe and understand what has happened as well as predict what will happen in different circumstances. In part, therefore, a theory entails describing and conceptualizing the phenomenon in which we are interested. Theories stipulate why things happen in terms of putting forward a causal relationship between different phenomena. Simultaneously, theories specify when and where this effect may (or may not) happen, thereby limiting the scope of applicability of the theory to particular circumstances. Theories are linguistic, conceptual devices that try to tell us things about the world by representing it in a casual manner. In the case of any social theory this is to do with the behavior of people in

various social contexts. Theories define, classify or categorize aspects of the world – the what of which we are studying. Theories propose reasons in the form of cause – and – effect relationship that explain the variation of a particular phenomenon in terms of the effects of the action of, or variation in, another phenomenon – the why and how. Theories identify the situations or contexts when these causal relationships will or will not operate, and thereby set the boundaries to where they are applicable. Based upon this what, why, how, when and where analysis, theories then can guide our actions, because they enable predictions and hence potentially enable us to anticipate and try to influence or even control events. By intervening and changing the independent variables, the dependent variable should also change in a manner predicted by the theory, provided that the theory holds. Theories are used to describe, explain, and justify the dependent variable (McAuley, Duberly and Johnson, 2007).

Path Dependence

Path dependence or history dependent process, originated as an idea that a small initial advantages or a few minor random shocks along the way could alter the course of history. In common interpretations, path dependence means that current and future states, actions, or decisions depend on the path of previous states, actions, or decisions. Theoretical, historical, and empirical studies of path dependence covers topics ranging from the selection of institutions, to the formation of government policies, to the choice of technologies, to the location of cities, to control strategies, and to the formation of law. A survey of the literature on path dependence reveals four related causes in the increasing returns, self-reinforcement, positive feed-backs, and lock-in. Though related, these causes differ. Increasing returns means that the more a choice is made or an action is taken, the greater its benefits. Self-reinforcement means that making a choice or taking an action puts in place a set of forces or complementary institutions that encourages that choice to be sustained. With positive feed backs, an action or choice creates positive externalizations when that same choice is made by other people. Positive feed-backs create something like increasing returns, but mathematically, they differ. Positive feed-backs can be thought of as benefits that rise smoothly as more people who already made that choice or action becomes better than any other one, because a sufficient number of people have already made that choice. Path dependence may offer an explanation to why some countries succeed and others do not. Standard economic growth models predict that less developed countries should catch up with

their richer counterparts. It is suggested that country-level success depends on the proper build-up of institutions, behaviors, and law. To put some logical structure on the possible sway of history the general framework is here described in several definitions of history dependence. The definitions differentiates between path dependence, where the path of previous outcomes matter, state dependence where the paths can be partitioned into finite number of states which contain all relevant information, and a different perspective on path dependence, where the events in the path matter not the order. It is also distinguished between early and recent path dependence, and between processes in which outcomes are history dependent and those in which the distribution over outcomes depend on history. Path dependence requires a build-up of behavioral routines, social connections, or cognitive structures around an institution. History dependence need not imply deterministic dependence; it need only imply a shift in the probabilities of outcomes as a function of the past. History can matter in determining the outcome at that given time, which is a process where the outcome in a period depends on past outcomes. History can also matter for the limiting distribution over outcomes, which is a process that needs to see that the distribution over outcomes depends on past outcomes.

The Ergodic Theorem says that a stationary, ergodic, state-dependent process generates a unique limiting distribution over outcomes. The Ergodic Theorem does not deny outcome dependence. In fact, only the most trivial state-dependent process does not exhibit outcome dependence. It says that if we were to run a process many times, and if each time we were to bin the outcomes and create a distribution, we would find that the distributions were all the same. In the long run, the history of outcomes would not have mattered. This leads to the second observation, which is a restatement of the Ergodic Theorem. If the history of outcomes matters, but not the order in which they occur, the definition in this contextual process is called path dependence. The path is the ordered set of all previous outcomes. If one political constituency prefers market solutions and another prefers bureaucratic solutions, then success by one constituency may result in the mustering of greater political forces by the other. The addition of another market-based institution may create more pressure for future bureaucratic solutions. A concern for fairness might also create balancing forces. Rotation schemes in the European Union are an extreme example of balancing, but more subtle balancing may occur in the selection of locations for such things as political conventions, the World Cup, or the summer and winter Olympics.

The second class of models relies on externalities between actions and choices. These models are decision theoretic. In each period there is an outcome, and that outcome may or may not change the probabilities over future outcomes. These probabilities shift owing to the calculation of a payoff-maximizing decision-maker. This second class of models enables a deeper unpacking of the relationship between increasing returns, positive externalities and path and path dependence. In this context it is assumed that there exists a decision-maker who takes sequential actions. These are decision over project proposals, meaning that it can also be a rejection on a proposed project. It is assumed that the sequence is infinite so that the decision-maker cannot wait until seeing all possible proposals prior to taking an action. In each period the decision-maker considers a single proposal. Proposals can then be identified by the period in which they are considered. It is further assumed that once approved a proposal cannot be reversed, but that a rejected proposal can be approved in any later period. The definition of history dependence requires that the history of proposals influences the set of proposals approved (Page, 2006).

At least for large-scale political processes, explanations always make implicit or explicit assumptions concerning historical origins of the phenomenon and time-place scope conditions for the claimed explanation. Those assumptions remain open to historical verification and falsification. In the case of long-term processes, some or all features of the process occur outside the observations of any connected cohort of human analysis, and therefore require historical reconstruction. Most or all political processes incorporate locally available cultural materials such as language, social categories, and widely shared beliefs. They therefor vary as a function of historically determined local cultural accumulations. Processes occurring in adjacent places such as neighboring countries influence local political processes, hence historically variable adjacency alter the operation of those processes. Path dependency prevails in political processes, such that events occurring at one stage in a sequence constrain the range of events that is possible at later stages. Once a process has occurred and acquired a name, both the name and one or more representations of the process become available as signals, models, threats, and/or aspirations for later actors. In all these ways, history matters. In the case of state transformation, it is very difficult to create comprehensive, plausible, and verifiable explanations without taking history into account. Across a wide range of state transformation a robust process recurrently shapes state-citizen relations: the extraction – resistance – settlement cycle. In that process some authority tries to extract resources to support its own activities from population living under its jurisdiction. Those resources are

already committed to competing activities that matter to the subordinate population's survival. Local people resist agents of the authority who arrive the seize the demanded resources and struggle ensues. A settlement ends the struggle. Clearly the overall outcome of the process varies from citizens' full compliance to fierce rejection of the authorities' demands. Clearly the outcome depends on the process's internal dynamic, but also on historically determined initial conditions and on adjacent processes. The settlement mechanism alters relations between citizens and authorities, locking those relations into place for a time. The context of this is to be seen as a similar process that occurs at a wider range of historical experiences, but its exact consequences depended intimately on historical context (Tilly, 2006).

Organizational Structure

Structure refers to relatively stable relationships and processes of the organization, and the organizational structure is considered by many to be the anatomy of the organization with its foundation of functions. Thus, the structure of an organization is often viewed as a framework where the focus lies on the differentiation of positions, formulation of rules and procedures, and prescriptions of authority. Therefore, structure has a main purpose in regulating, or at least reduces uncertainty in the behavior of individual within an organization. The organizational structure is a process made by the management, and it is a process of choice of an alternative framework best suited concerning jobs, work projects, and departments within the organization. The dimension of formalizing organizational structure refers to the extent to which expectations regarding the means and ends of work are specified, written, and enforced. An organizational structure described as highly formalized would be one with rules a procedures to prescribe what each individual should be doing. Such organizations have written standard operating procedures, specified directives, and explicit policies. In terms, formalization is the result of high specialization of labor, high delegation of authority, the use of functional departments, and wide spans of control (Ivancevich, Konopaske, Matteson, 2011). There are to main characters in organizational structure, which are assumed to have greater impact on how people think and react. The first one is goals and strategies, which can be defined as clear directions of the organizational work, or they can be vaguely defined an enhance room for interpretations. The second is formal organizational structure, which consists of two main dimensions seen in shared labor and specialization, and management and coordination. The first one gives room for more free action within the organization and the second one restricts the action of the participants. The organizational design describes how a

formal structure develops through distribution and classification of work tasks, hierarchical organization of authority, and the use of administrative arrangements for management, coordination and control. The term organizational structure shows to labor, distribution of authorities and a system of management, coordination and control of tasks. A basic feature for an organization is to position the comprehensive work-task into smaller sub-tasks, and that the participants specialize on some of these sub-tasks. This is done both on an individual level and in groups. The formal organizational structure does not only decide the labor and the division of the labor within the organization, it also contains elements that are set out to secure the necessary coordination. There are mainly six different ways to coordinate the organizational work. It can be seen through mutual adaption, direct supervision, and standardization of work-tasks, standardization of results, standardization of knowledge and standardization of norms. In a conventional context the standardization of results can in many ways capitulate the events of the work and the outcome. In this context the specification of the wanted results is laid down in the specific goals of the outcome of the organizational process. The coordination mechanism encourages the representatives to be flexible, take initiative and to be creative in the process of reaching the common goal of the outcome. The only binding procedure is the specifications relative to the results. The downside of this way of standardization concerning the organizational coordination of the work is that the representatives loose the sight of the common goal, and get to attached to their own anticipation of their work.

The size of an organization is also important concerning the formal structure, meaning the number of representatives and how it is formally structured. The Machine Bureaucracy as an organizational form builds on the ideas of Weber's ideal typical bureaucracy model. The Machine bureaucracy is characterized by centralized decision-making and a high degree of formalization, because the coordination of the organizational objectives is controlled through rules and regulations. This organizational form will often also have a big techno structure, meaning that many of the representatives will have work-tasks bounded up in the standardization of the rules and regulations. In addition, the Machine bureaucratic organization will often be structured with functional specialization. The advantage of the Machine bureaucratic structure is seen in the ability to define clear responsibility areas of the representatives and working-groups, in its predictability through the set rules and regulations, and the standardization that promotes effectiveness (Jacobsen and Thorsvik, 2002).

The postulated procedures in an organized structure can be seen as bargaining-political procedure. A bargaining-political procedure is here seen as a process by which coalitions are formed and political bargains struck. Choices are made by forming a group with sufficient power to enforce a joint solution to an issue. In the case of bargaining political procedures it is assumed that the preferences of the individual participants are reasonably well-specified, that the structure of the political game is reasonably clear, and that participation and power are reasonably stable. The focus in this perspective of organizational structure focuses on those aspects of organizational structure that specify rights to participate in a choice opportunity. Decision-making is normally seen as a process for solving problems, but that is often not what happens. Problems are worked upon in the context of some choices, but choices are made only when the shifting combinations of problems, solutions, and decision-makers happen to make action possible. Individual variations in involvement or activation are a familiar subject of concern in the study of political and social systems. The decision-making processes involved in an organizational structure are formed by individuals and how they tend to form and specialize their attention. Different groups are often represented when discussions and decisions are made, and they tend to concentrate their attention on some specific points of the case. First, there is a set of structural constraints on the allocation of attention. The written and unwritten rules of an organization specify who is allowed or required to attend to what and when. Second, there is a pattern of individual action within the constraints. The structural constraints limit the patterns of attention, and there are behavioral variations within the constraints. Attention is regulated by rules, and the rules specify who is permitted to attend to a particular choice and who is required to. Further, when a decision may be made and when it must be, also which factors may be considered relevant and which must be. The rules may be formalized in organizational operating procedures, but they can also be informal norms about legitimate decision procedures. The attention structure is important, because in a highly segmented structure it may effectively determine major features of the outcomes. For the most parts, however, the structure interacts with the way in which individuals and groups exercise participation rights. In this context we will find the problem of representation. Most theories of decision-making emphasize the decision process as a procedure for producing outcomes. The outcomes, in turn, have different value to different individuals. Rational models of decision attention focus on involvement in decision-making as an instrument for affecting satisfaction by affecting decision outcomes.

A decision-making process is characteristically seen as having a reasonable well-defined beginning and ending. The beginning is recognition of the issues at stake and the ending is the choice made by the organized body. Sub-parts of the process are similarly bounded in time. It is ordinarily assumed that a decision-making process attracts relatively well-defined and relatively stable lists of actors. These actors come to the decision because of the nature of the problem and they leave when the choices are made. We usually imagine that the actors in a decision-making process can be characterized by some well-defined intentions. The decision-making outcome is produced through the interaction of those intentions within a power structure. It is typically to endow the decisions of the study with importance. It is to be understood as attracting from the actors the same sort of significance that the observers give it. Organizations imply intention and are seen as social instruments. They are intended to facilitate the accomplishment of objectives. They are intended to exhibit elements of efficiency and effectiveness. The idea of a decision is a theory. It assumes a connection between activities called the decision-making process, pronouncements called decisions, and actions called decision implementations. The decision-making process brings together people, problems, and solutions, and produces a decision. The process may involve problem-solving, bargaining, and some system of power. Whatever the mechanism, the process generates an outcome (March and Olsen, 1976).

The Importance of Organizational Groups

Group performance is affected in part by group cohesiveness, and the degree of group cohesiveness depends upon the quality and kind of interpersonal relationships of participants assigned to a task group. The basis for departmentalization that management selects also has important implications for organizational relationships. The functional basis places work-tasks within similar depth and range in the same groups. The existence of groups can alter a person's motivation or needs, and can influence the behavior of representatives in an organizational setting. To understand the nature of groups within an organizational structure there is a need to explore various types of groups. Groups work in different ways when it comes to the reason of their formation, their characteristics, and the end results of the representatives of the groups. Groups are formed when two or more individuals interact. Groups provide structure for the work and interaction of their representatives. The representatives within the groups can perform specific technical, leadership, problem-solving, and emotional roles, and they share a common goal or goals. There is often operated with

three terms of specific requirements that must be met for groups to exist. The first requirement deals with size. There must be two or more individuals for there to be a group, but there is no maximum number for a group. The second requirement specifies that there must be some form of exchange or communication between these individuals. That is, they must interact with each other in some manner. The final requirement in this definition of groups is that of attempting to accomplish a common goal. A common goal is a goal toward which individual members are willing to work. Although every group is different, it is also true that in many important ways groups tend to display similar patterns of evolution. This model suggests that the end result of group activity is shaped by a number of antecedent variables, where each segment influences each of the other segments. An organization has technical requirements that arise from its stated goals. The accomplishment of these goals requires that certain tasks are performed and that employees are assigned to perform these tasks. As a result, most employees will be members of a group based on their position in the organization. The demands and processes of the organization lead to the formation of different types of groups. Specifically, at least two types of formal groups exist in the formation of a task group. A task group comprises the employees who work together to complete a particular task or project. Informal groups are natural groupings of people in work environments in response to social needs. In other words, informal groups are not deliberately created, they evolve naturally. Groups evolve through some general stages and sequential stages and one widely cited model of group development assumes that groups proceed through as many as five stages of development. The first stage is forming, and it is characterized by uncertainty about purpose, structure, and leadership of the group. Activities tend to focus on group members effort to understand and define their objectives, roles, and assignment within the group. Patterns of interaction among group members are tried out and either discarded or adopted. The more diverse the group is, the more difficult it is to maneuver through this stage and the longer it takes. Generally, this stage is complete when individuals begin to view themselves as part of a group. The storming stage of group development tends to be marked with conflict and confrontation. A particularly important part of storming can involve redefinition of group's specific tasks and overall goals. Individually, group members are likely to begin to decide the extent to which they like the group tasks and their degree of commitment to them. While storming often is marked by conflict and confrontation, norming is characterized by cooperation and collaboration. It is also the stage where group cohesion begins significant development. There tends to be an open exchange of information, acceptance of differences of opinion, and active attempts to achieve mutually agreed-upon

goals and objectives. The fourth, and what may be the final stage, is performing. Performing is the stage where the group is fully functional. The group structure is set, and the roles of each member are understood and accepted. The group focuses its energies, efforts, and commitments on accomplishing the tasks it has accepted. The adjourning stage involves the termination of group activities. Many groups, of course, are permanent and never reach the adjourning stage. For temporary groups, however, such as committees, project groups, task forces, and similar entities, this stage includes disbandment. Customary task activities are complete and the group focuses on achieving closure. This stage can be marked by very positive emotions centering on successful task accomplishment and achievement. It may also be a source of feelings of loss, disappointment, or even anger. Group composition relates to the extent to which group members are alike. Members of a homogeneous group share a number of similar characteristics. Characteristics may be demographic, personality, skills and abilities, or work experience, to name just a few. A heterogeneous group on the other hand, is composed of individuals who have few or no similar characteristics. Group composition can be very important because it can influence a number of other characteristics and outcomes (Ivancevich, Konopaske, Matteson, 2011).

Management and Power in Organizations

Leadership is often defined as the process of influencing others to facilitate the attainment of organizationally relevant goals. Note that as specified by this definition it is not crucial to be a formal leader to exert leadership behavior. The role of informal leaders can be as important to a group's success as is that of formal leaders. Although there are differences in definition, leadership expectations, and the three significant variables that are a part of all leadership situations; people, task, and environment, there are still some leadership commonalities. It can be concluded that virtually all leaders of effective groups share four characteristics. They provide direction and meaning to the people they are leading. They generate trust. They favor action and risk taking. They are purveyors of hope (Ivancevich, Konopaske and Matteson, 2011).

Management is often seen as a series of events that are exercised by one or more representatives within an organization. The focus within the theoretical framework often focuses on the personalization of management. The purpose of management is to get the representatives within an organization to perform a set of work-tasks. In this case management is attached to theories on motivation, social relations, group alliances, and group

dynamic. Management is set out to help the organization reach their set of stated goals through the distribution of work-tasks to representatives and the working-groups. In this context the term management is attached to the theories on how organizations are to be structured. It is often what recognizes the organizational situation that defines its management. The relationship between the representatives and the management is seen as the most important feature concerning the management's ability to influence the representatives. Further, it is recognized through the structure of work-tasks, meaning whether the work-tasks are clearly stated and formulated for the representatives to work in the direction of the common goals. Also the authoritative position of the management recognizes the organizational ability to management control and supervision (Jacobsen and Thorsvik, 2002).

Leadership can also be defined as an interaction between two or more members of a group that often involves a structuring or restructuring of the situation and the perceptions and expectations of the members. Leadership occurs when one group member modifies the motivation or competencies of others in the group. Any member of the group can exhibit some amount of leadership. Leadership is here viewed as constituting only constructive behaviors aimed at pursuing group goals. This defines leadership as an instrument of goal achievement. Concerning democratic leadership as a term it is operated with elements of behavior that influences people in a manner consistent with and/or conducive to basic democratic principles and processes, such as self-determination, inclusiveness, equal participation, and deliberation. Leadership and authority are conceptually distinct. Democratic authorities do not necessarily serve as democratic leaders, and democratic leaders sometimes lack formal authority. A given democratic group confers administrative and legislative authority to specific individuals. Leaders need authority, but the delegation of authority in a democratic group is never a mandate for any leaders to employ authority without the eventual approval of the group. To the extent that they have a measure of authority or power, democratic leaders must be accountable for the decisions they make as individuals and the roles they play in the group. Their position in the network of power relations also makes these leaders responsible for making lines of authority, power, and decision-making clear and visible. Leadership is behavior, not position, and this is often seen in the democratic method of leadership. Nevertheless, it is the function of the behavior that is crucial, and leadership can be viewed as the performance of those acts which helps the group achieve its preferred outcomes. Such acts may be termed group functions, and in this view leadership functions encompass all member actions that help the group achieve its desired states. In democratic

groups, this amounts to behaviors that sustain the democratic process. The first function of democratic leadership is the distribution of responsibility. The democratic leader seeks to evoke maximum involvement and the participation of every member in the group activities and in the determination of objectives. The democratic leader seeks to spread responsibility rather than to concentrate it. The essence of democratic leadership shall be to promote opportunities for the fitting initiative of those within the society, and in the manner the society desire. In an empowering aspect of democratic leadership leaders should help develop members' decision-making capabilities. This is a vital function, for democracy requires a politically competent membership, where the members of the group should become skilled at a wide variety of tasks, such as speaking, thinking, and organizing. Members' abilities may be developed through taking on new responsibilities, but leaders can also play a direct role by offering instruction or suggestions. Democratic leaders should always seek to broaden the leadership base and distributing leadership responsibilities. Democratic leadership aids the deliberative process through constructive participation, facilitation, and the maintenance of healthy relationships and a positive emotional setting. Constructive participation means defining, analyzing, and solving group problems through deliberation, where political problems must be identifies and defined or framed, problems must be analyzed to bring out all relevant information and perspectives, and possible solutions must be generated through creative reflection and critical evaluation to help move the discussion forward. Facilitation is conceptually distinct from constructive participation in that it is a form of meta-communication. Effective facilitation involves keeping focused and on track, it involves the encouragement of free discussion and broad participation, and it involves encouraging members to observe the norms and laws that the group has adopted. Democratic leadership is seen when more than one person servers leadership functions where group members perform leadership functions some of the time (Grint, 1997).

A number of studies have been conducted to explore political behavior and perceptions in organizations. These studies suggested that political skill can be accurately broken down into four distinct factors, such as social astuteness, interpersonal influence, networking ability, and apparent sincerity. Further, out of the four of these factors, social astuteness is the strongest predictor of supervisor ratings and leadership effectiveness. There are a variety of political tactics used to influence other members of an organization. This is seen in rule evasion, meaning evading the formal procedures in the organization. Further, it is seen through personal-political tactics and how friendship is used to facilitate or inhibit the process of

decision-making. Politics is a fact of organizational life, and politics and political behavior exist in every organization (Ivancevich, Konopaske, Matteson, 2011).

Conclusion

In this chapter I have given a short historical introduction to the establishments of the conventions. In the context of the European Union I explain the development from its start as a peace project and how the Union expanded to an economic entity at the end of the 1980s. How historical events changed the paradigm in the European context and challenged how the function of Treaty reforms managed to have impact on issues facing the Union in the areas of a common market, better structured institutions, and external crisis like cross-border crime and terrorism. The internal and external challenges of the Union is seen in comparison with the American case, where the failing of the decision-making procedures, the IGC in Europe and the Articles of Confederation in America, which in both cases spelled out declarations on revising the existing decision-making procedures.

The theoretical framework is presented through the theory of path-dependence, organizational structure and organizational leadership theory. The logic in my discussions will have these theoretical approaches as context and the elaborations on the events that led to the establishment of the conventions, the organizational structure of the conventions and the influential contributions to the conventional work will, following in chapters 4, 5 and 6, be argued to have strong impact on the conventional processes.

3. The Methodological Approach

In this chapter I will give a short introduction to why we compare and to the comparative framework as a method for my thesis. I will present the analytical model and explain the relations in the model through the associated hypothesis to clarify how I plan to precede the elaboration on the independent variables affecting the dependent variable in the following chapters.

Jabko and Parsons argue that in a constitution-making processes it is difficult, and on some dimensions unavoidable, to study and analyse the European process without making references to the American process. They state that it is difficult to discuss developments in EU foreign and security policy, EU's ambitions in economic liberalization, or the initiative for a European constitution without bringing up the European Union's major ally, main

competitor, and oft-mentioned rhetorical model, the United States of America. The basic notion of transatlantic comparison is an old and growing scholarly tradition, and the basic challenge is the sheer size and complexity of the European and US arenas. Even book-length projects have difficulty in analysing both in depth and breadth. One body of scholars resolves this problem by focusing on relatively narrow comparisons. Working in the classic comparative tradition of national cases, it contrasts slices of European and US polities in arenas like industrial relations, welfare states, regulations, and so on. The other major solution, featured in the work on comparative federalism, is to zoom out to a broad survey of similarities and differences between the EU and the US system (Jabko and Parsons, 2005:5).

Comparative analysis is a powerful and versatile tool. It enhances the ability to describe and understand political processes and political change in any country by offering concepts and reference points from a broader perspective. The comparative approach also stimulates the formation of general theories by confronting them with the experience of many institutions and settings (Almond, Powell, Strøm, and Dalton, 2002).

As a theoretical framework the strengths to the comparative approach lies in its ability to capture the characteristic features of macro-social units, both in their historical and contemporary aspects. The comparative case study approach is particularly useful in the context of constitution-making processes in a comparison between two polities, because such an approach permits attention to macro-social cases as wholes. A comparative framework can be used to discern the defining features of the constitution-making process in a European and American context. Equally important, it also provides a means of capturing the complex and multifaceted nature of the process of constitution-making, which is necessary if we are to properly understand how, and the extent to which, the two processes within the constitutional conventions were played out. In the comparative analytical framework of the two different processes a framework that can yield a systematic assessment of the similarities and differences that are deemed relevant for comparison is imperative. Such a framework should permit, not only to understand core features, but also the systematic character of the constitution-making process. It is therefore in this context a need for conceptual markers to understand the magnitude of the European and American constitution-making processes.

Based on the preceding historical introduction of the European Union facing internal and external issues in comparison with the internal and external crisis facing the American continent, as well as the presentation of the theoretical approach, I will turn to a process analysis of the EU convention and American convention. The main units are the history

dependent factors leading to the constitutional conventions, the organizational structure within the conventions, and the effect of political leadership and representative's contributions to the conventional process. The analysis will be done according to the question:

> Is the process of constitutional work within a convention dependent on preceding historical events, organizational structure and political leadership? And if so, is this in both the European and the American conventions?

I will use the following analytical model in my analysis of the conventional work processes.

The Analytical Model

```
                    ┌─────────────────────────────┐
                    │  The European Convention     │
                    └─────────────────────────────┘

┌──────────────────┐
│ Historical        │
│ Events            │
└──────────────────┘              ┌──────────────────┐
                                  │ The              │
┌──────────────────┐             │ Conventional      │
│ Organizational    │             │ Process           │
│ Structure         │             └──────────────────┘
└──────────────────┘

┌──────────────────┐
│ Political         │
│ Leadership        │
└──────────────────┘

                    ┌─────────────────────────────┐
                    │  The American Convention     │
                    └─────────────────────────────┘
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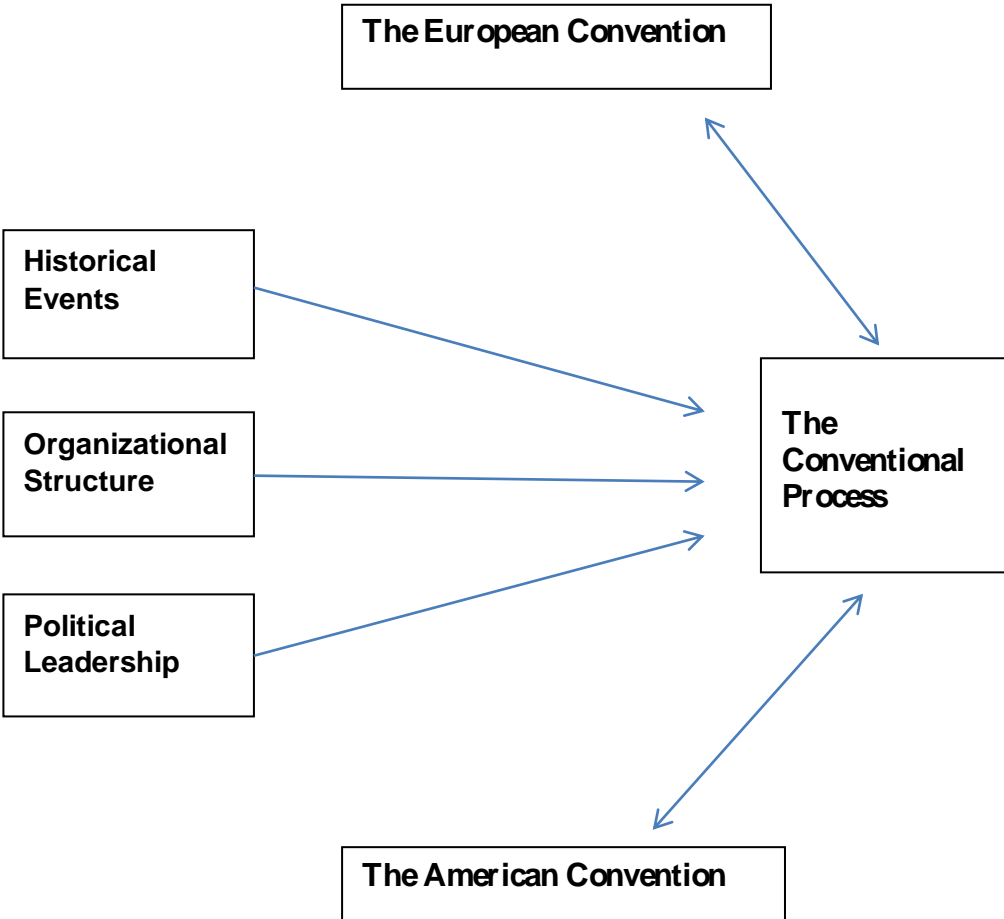
The dependent variable is the conventional process. This formulation is appropriate because the aim of this thesis is to discuss the processes of the European and American constitutional conventions, and to analyze the conventional processes in a comparative framework of these two. The point of departure is the similarities and differences between them. As the model represents above, it shows that the conventional processes of the EU and American continents are strongly influenced by the preceding historical events that led to the establishment of the conventions, how the conventions are structurally organized, and how strong contributions to the convention will have great impact on the progress of the conventional work-processes.

Relations in the model

The relationship between the dependent and independent variables in this case is shown when it is understood that the historical events that led to the establishment of the conventions, the structural organization of the conventions, and the strong political leadership and representatives contributions, had strong impact on the conventional work-processes. As the analytical model shows, all three independent variables have equal impact on the conventional processes, even though they occur in different stages of the processes. The historical events prior to the actual establishment of the conventions will show impact on the process, as will the two independent variables occurring in the life of the conventions.

Based on the analytical model and the explained relations I am setting out three hypotheses:

H. 1: The historical events that led to the establishment of the conventions had impact on the conventional processes in the case of internal and external issues facing the continents and the failing of the already operating procedures for political change, which both set out the conventional agenda.

H. 2: The organizational structure of the conventions had impact on the conventional processes in its number and variation of representatives, how the structure was set out, and how this created both formal and informal relations.

H. 3: The political leadership of the conventions had impact on the conventional processes through the organization of authority, the formation of working-groups and strong contributions from conventional representatives.

There will not be any significant problems with the documents to be used, because they are official documents, and the versions being used are not secondary data in the sense that they are interpreted in some way. One problem, however, can be my own presumptions of the theme. There is a certain danger when it comes to such analysis, that the outcome may be coloured by the researcher, hence it is difficult to maintain completely objective. In this sense the theoretical approach is of great importance, because a "good and clarifying presentation of the theoretical approach, helps to stick to the case, and maintain objectivity through the entire analysis" (Nachmias and Nachmias, 1996:324). It is important in social science research to state the problem and concepts clearly. The procedures used to test the hypothesis must be appropriate for the actual problem. In addition to this, the research problem has to be clearly and specifically stated (Nachmias and Nachmias, 1996). In my problem I have taken into account the theoretical approaches seen in the independent variables, and in the following I will present all three of them in these contexts, and also how they can be seen in a comparison of similarities and differences between the European and American conventions.

Conclusion

I have given a short introduction to opinions on the reasons for a comparative framework and why it is used in this context. I have also emphasized the link between the analytical model with its independent variables and dependent variable in relations to hypothesis explaining the discussions of the thesis. The main reason for this is to show how the conventional work-process is influenced by the pre-historical events prior to the establishment of the conventions, how the organizational structure develops into informal and formal gatherings of the work-procedures, and how strong representative contributions influence the work progress and the final document.

4. Historical Events prior to the European and American Conventions

The aim of this chapter is to show and discuss the path-dependence within the events that led to the establishments of the two conventions, and how these dependences in the history prior to the conventions influenced the conventional work-processes. I argue that the need for revision and adjustments on internal and external issues and crisis facing both continents started in the failing of the methods of the existing negotiations and procedures for change. Constitutional politics within the European Union and the American nation had proceeded through the mechanisms of the Intergovernmental Conference, the Treaty process, and through the Articles of Confederation. The failing of these methods to follow up alongside the

development on internal and external challenges on both continents, ended in declarations to revise the existing regulations and procedures. The Laeken Declaration for the European Union stated out a better division of competences, simplification of the instruments, integration through better structured institutions, and a stronger procedure for decision-making. The commission that met at Annapolis set the agenda for how to solve the crisis in and between the American states. I will elaborate on how the historical events ending out in these declarations set the agenda for the conventional work, and worked as guidelines for the processes of conducting a final draft document. This section will end with a comparison of the European and the American historical events that ended up in the establishment of the constitutional conventions.

The Insufficiency of the European Treaty Process

Robert Schuman, the French Foreign Minister, proposed the creation of a European Coal and Steel Community in 1950, which was the beginning of peace and prosperity to Post-Second World War European countries. This new established cooperation community reflected growing ambition by changing of names, from the European Economic Community of 1957, through the European Communities of 1965, to the European Union of 1992. These growing ambitions were also seen over the decades in the actions of vanquishing internal borders between Member States. The European Union gradually built itself up to become the world's biggest trading entity. As a Union it expanded enlargement, and alongside this process the aspiration to a common foreign and security policy was clearly present, where its common market acted as an engine to integration. The process of enlargement, also to include the former communist countries of central and Eastern Europe, stated a line under the Post-Second World War division of Europe. In addition, the recognition of Turkey as an applicant country amounted to a promised bridge over divisions in Europe since the fall of Constantinople to the Turks in 1453. The speed of enlargement stated the development within the European Union, and even without first achieving political union or harmonize the economic and fiscal policies, 12 out of 15 existing Member States created the Euro as their single currency, and all 15 were committed to forging a single market for goods and services. The Lisbon European Council in March 2000 added the target of creating the most competitive and dynamic knowledge based economy in the world by 2010. Being seen as a great peace-project and to serve as the world's biggest economical block, the European Union entered the 21st century as a huge success. On the other hand, as a trade entity, a world-large economic power, and a perfect juridical construction, the Union was plagued with doubts.

Within many areas the Union failed to manage full potential development on the world stage, or find a place in peoples' hearts. Its rather weak international profile partly reflected collateral damage from its two great projects of the 1990s seen in the establishment of a single currency and the single market, which both should be motors of greater integration. In this context the necessity of large scale adjustment of rules, legislation and habits at the supragovernmental and intergovernmental levels were imperative.

In the wars of the Yugoslav succession, where the resolution of conflict in Bosnia and Kosovo required US intervention, the gap between the Union's economic strength and ambitions and its ability to project power outside its territory was exposed. Further, the efforts and attempts to develop the European Union's foreign and defence policies were challenged when the terrorist attacks on New York and Washington on 11 September 2001 turned the United States into an even more assertive international force. The Union was facing external crisis, but as a parallel process it also had internal and domestic organizational structure and politics to deal with. Voter participation in the June 1999 European Parliament elections dropped below 50 per cent for the first time, the Danish referendum on whether to join the Euro in September 2000 was rejected, the Irish referendum in June 2001 on adjustments to the Union's governance in the Treaty of Nice resulted in damaging defeats for supporters of more integration, and the Swedish referendum in September 2003 also voted to stay out of the Euro. These internal failures created a spill-over effect for a new division of political leaders and then again the European peoples. Far right politicians such as Jörg Haider in Austria and Jean Marie le Pen in France made gains on platforms that included hostility to the Union, and managed in some cases to turn regular meetings of the Member States' leaders in the European Council to an excuse for riots. The Euro barometer survey on support for the Union in spring 2000 and 2001 dipped below 50 per cent in all 15 Member States. Further, when a younger generation of politicians in the EU Member States took over they began to question the 'top-down' approach towards the Union's development. They found that the intergovernmental methods failed to deal with a sharp increase in the numbers of asylum seekers and illegal immigrants. They decided at their June 1997 Amsterdam Summit to gradually bring these parts of the justice and home affairs pillar under the Community Method umbrella (Norman, 2003).

The European Union, at that point, had a three-pillar system consisting of the Community Method as the first pillar staging out the policy areas where the EU institutions had decision power giving the Union a supragovernmental level. The pillar structure was created with the adoption of the Maastricht Treaty in 1992, where the second pillar concerned provisions in a

common foreign and security policy and the third provisions on co-operation in the fields of justice and home affairs (McCormick, 2004).

According to Page, the pre-historical events can be defined as a different perspective of path-dependence, where the events in the path matter not the order. The gathering of leaders in Lisbon in March 2000, as an attempt to relaunch the single market, can be seen in such a defined context. These early and recent history-dependent processes culminated in an attempt to elaborate a system of benchmarking national policies and open method of coordination to push the project ahead, which again would imply a shift in the probabilities of outcomes as a function of the past. The leaders in Lisbon soon discovered that the Union was entrusted with exclusive competences in remarkably few areas, and these competences only reflected themselves in the origins of the common market or European Economic Community. In this context, Page argues that path-dependence is seen in the build-up of behavioural routines, social connections, and the cognitive structure around institutions. The Union competences were only to be seen in the internal market competition rules, common commercial policies, the customs union, common fisheries policy, and cooperation between the European Union and the Member States in most areas of economic and political activity. However, the Member States set political limits to integration by placing the new areas of foreign and security policy, and justice and home affairs in separate pillars. This was pictured and reflected in the differing levels of engagement of Union and Member States in its institutional structure. To explain, the institutional triangle within the Union comprised a Commission of appointed officials, a Council of Ministers with a secretariat representing the Member States, and a directly elected European Parliament. These institutions secured the Union's objectives in the areas of pooled sovereignty that constituted the European Community. The Commission, representing the European interest, had the right to propose legislation. The Council, consisting of ministers from Member States meeting in various different formations, and the Parliament, representing Europe's citizens, would approve, amend or reject the legislation in the Community Method process. The European Court of Justice was also a part of the Community structure, which enforced Community law and the independent, Frankfurt-based European Central bank running monetary policy. For the three participants of the institutional triangle the European Council of Heads of State or Government was the strategic planner. It was chaired by a different national leader every six months under a system of rotating presidencies that applied also to the Council of Ministers. The European Council grew greatly in importance as Member States resorted increasingly to coordinated national

policies to obtain their objectives in the Union rather than pool sovereignty using the Community Method. Path-dependence can here be seen as a balance of forces.

Further, the Union's relatively simple architecture was greatly complicated from the beginning of the 1990s when its leaders decided to develop a common foreign and security policy and cross-border initiatives in justice and home affairs, but without pooling sovereignty in the traditional community-manner. The result, summarized in the Treaty on European Union agreed at Maastricht, was the creation of the two new intergovernmental pillars with their own decision-making practices alongside the traditional Community structure. The European Union was therefore a hybrid with two sources of political legitimacy: the Community and the Member States, where the citizen was represented in both. The inbuilt tension between those parts in which sovereignty was pooled and decisions reached through the Community Method, and those parts in which the Member States retained their sovereignty and cooperated on an intergovernmental basis, spawned a great divide. Therefore the European Union was forced to spend much of the 1990s in attempt to adjust these two spreading sides to work more effectively alongside each other. In the spirit of previous debates the negotiations complexity aimed at changing the Union's founding Treaties. The Treaty processes had existed within the Union from its beginning, and Tilly would argue that path-dependence can be seen in accumulation of process, meaning that events occurring at one stage in a sequence constrain the range of events that is possible at a later stage.

The Maastricht Treaty was followed after five years by the Amsterdam Treaty, which made modest progress by extending citizens' rights and prescribing the transfer of asylum and immigration policies to the Community pillar. In Cologne, the European Council decided to reach out to the citizens by bringing together the fundamental rights applicable at Union level into a Charter. Designed to give the Union a more human face, a convention comprising government representatives, European and national parliamentarians plus one commissioner, gathered to draft the fundamental rights into a Charter of Fundamental Rights and Freedoms. But, important issues relating to the Union's institutions went unresolved although the enlargement process towards eastern European countries had begun. Entering the 21[st] century, another Intergovernmental Conference of the Member States that would be held in 2000 and concluded in Nice in December that year, lacked the breadth and ambition necessary to tackle the accumulation of challenges facing the Union. The IGC that culminated in the Nice Treaty of December 2000 had the narrow brief of tackling technocratic leftovers from the previous attempt at revising the Union's founding Treaties at the Amsterdam Summit of June 1997. The Nice negotiation had the aim of avoiding a paralysis of decision-making caused by

institutional gridlock in an EU that was now set to 25 or more Member States. The Nice agenda was all to do with the distribution and use of power among the Member States as a preliminary for the enlargement to encompass the former communist states of eastern and central Europe and the Mediterranean island states of Malta and Cyprus. The main points of contention were the future size and composition of the European Commission, the weighting of Member States' votes in the Council of Ministers and the possible extension of votes by qualified majority voting (QMV) in place of unanimity. During the course of 2000, the Member States added enhanced cooperation to the list. Enhanced cooperation, by which a small number of Member States could forge ahead with integration in specific areas of policy. One important policy, which was approved at Amsterdam, dealt with cross-border ramifications. Voters in most Member States wanted what the 2002 Spanish EU Presidency should be defined as 'more Europe' to tackle problems that individual Member States were no longer powerful enough to deal with. Their concerns included aspects of foreign and defence policy and such intra-Union problems as cross-border organized crime or the movements of asylum seekers, illegal migrants and environmental disasters (Norman, 2003).

The IGC-model fails

Constitutional politics are the processes of creation and modification of the fundamental norms, rules and institutions of a polity. Apart from the well-documented constitutive role of the European Court of Justice (EJC), constitutional politics within the European Union had preceded through the mechanisms of the IGC and the Treaty processes. The choice of institutional setting for constitutional politics determined both procedures and outcomes. IGCs ensured that national governments were able to maintain tight control over outcomes and negotiations. The Member State actors in every such process aimed to maximize their benefits and to minimize their costs. The logic behavior followed a strategy of bargaining and fixed preferences were exchanged through the calculus of effects. This had two distinctive shortcomings where the first was related to the legitimating of outcomes, and the second to the procedures to produce pay-offs to all actors involved. This created a large gap between the insiders and the respective citizenry, a gap that several times created deadlocks in the ratification process. The deadlock on the negotiations at Nice saw a public and political reaction against the Treaty. This reaction was decisive in persuading European leaders to relax a method that 'fed the democratic deficit in the broadest sense of the term'. The spill-over effect from this turned the Heads of State to the convention method as a device to circumvent such deadlocks of IGCs in the future, because there were several issues that limited the

efficiency of the IGCs. Both in Amsterdam and in Nice they created divisions among Member States and the EU institutions and had a reduced or minimal influence. More decisively, the national governments adopted increasingly inflexible positions on issues that did not produce win-win situations for all parties involved. The Nice negotiations, in particular, spawned doubt on the capacity of 'top-level' negotiators defending national interests and guided only by strategic considerations to settle the kind of framework that would define the fundamental design of the European Union. The parallel process of enlargement and the forthcoming expand to 25 Member States would bring 'fundamental constitutional change' to the table. Again the limitations of the intergovernmental negotiations contrasted with the smooth and solemn elaboration of the Charter of Fundamental Rights. This experience with a convention to set out the Charter made the convention a paradigm of an efficient and legitimate mechanism to deal with preparation of constitutional issues. The decision to convene a convention was agreed because the IGCs had proved unable to tackle the pressing issues facing the European Union. These pre-historical happening together with the success of the convention convening the Charter, and the convention designing the American constitution, creates path-dependence in the matter of positive feed-backs, meaning that an action or choice creates positive externalizations when that same choice is made by other people. The design of the convention contained a compromise between the most ambitious reforming governments and the most skeptical ones. But, the IGC was not to be bounded by the result of the convention. This was with detailed defined in The Laeken Declaration. A document produced as the starting-point for the debates in the IGC together with national debates (Eriksen, Fossum and Menéndez, 2004:181-226).

The Laeken Declaration

The European Council met at Laeken on the 14th and 15th of December 2001, where the Council Members created and adopted a Declaration on the future of the European Union. This document listed four main themes to set out a better division and definition of competences in the European Union, simplify the Union's instruments to work for more democracy, transparency, and efficiency, and stated a need for a constitution for European citizens. The Laeken Declaration also posed a number of bold and poignant questions as main focus dimensions for the further integration process of the Union. It should find a better way to enhance the authority and efficiency of the European Commission and to appoint the Commission President. Further, to strengthen the role of the European Parliament and a better

way to elect members of the Parliament, and to strengthen the already consisting procedure of co-decision (Andenas and Usher, 2003).

At an informal meeting of the European Council in Ghent, in October 2001, the guidelines were agreed for the establishment of a convention to deal with substantial institutional and constitutional matters left over from previous rounds of Treaty reform. In addition, the tasks of the convention were to prepare the way for the next Intergovernmental Conference in 2004. The preparations should be seen through the role of national parliaments, the simplification of the treaties, the status of the Charter of Fundamental Rights, and a more precise delimitation of powers between the EU and the MS. The task of the convention, as set out in the Laeken Declaration, was to consider the key issues arising for the Union's future development and to try to identify the various possible responses. This identification process set out a platform for the convention to consider the Union's future development (Shaw, Magnette, Hoffmann and Bausili, 2003).

The identification process at Laeken and its outcome gave the established convention and its representatives a dimensional political platform with issues in strong need of many discussions and elaboration forums. In this context it is important to make clear that the Laeken Declaration of December 2001, which contained the decision to set up a convention and also spelled out its mandate and composition, did not designate it as a Constitutional Convention. It was presented as a preparatory body with the task of forging one or several proposals for the forthcoming IGC, which was the body formally in charge of Treaty change. The push for a convention came from the European Parliament and national parliamentarians. Although the convention was no explicit mandate to forge for a European Constitution, it was instructed to consider the constitutional question. In this context Page would argue that path-dependence can be seen in how the previous outcomes of the Treaty processes inflicted the choice of a constitutional convention. These exited an externalization between actions and choices, where each period generated an outcome, and that outcome changed the probabilities over future outcomes. Further, Tilly would argue that it is almost impossible in the case of transformation processes not to take the historical perspective into account. So the convention, as expressed by its President in his inaugural speech, took upon itself to produce a constitutional proposal and succeeded in producing a complete constitutional draft within the deadline set by the European Council (Fossum, 2003).

Historical Events prior to the American Convention

During the 16th century the British colonies were created along the North American costal plaine. These colonies managed to develop a state-structured society. Through the British trade-taxation's and the control demands over the American Parliament, where the British Crown wanted to be the legislative power, the Albany Plan was drafted by Benjamin Franklin and ratified in the meeting of colonial delegates (McElroy, 1999).

The 1754 Albany Plan was a "Plan of Union" where each colonial legislature would elect delegates to an American continental assembly presided over by a royal governor. The Plan anticipated many of the problems that would beset the government created after independence, such as finance, dealing with the Indian tribes, control of commerce, and defense (http://www.constitution.org/bcp/albany.htm)

The American constitutional convention, which was inspired by and through many events, began with the American Revolution in 1775. This war, between the American colonies and the British army, was fought to keep the already developed nation-culture on the American continent. The fight to keep these beliefs ended in the Declaration of Independence, which was the first constitutional law of the United States (McKeever, Zvesper and Maidment, 1999).

On June 7, 1776, Virginia introduced a resolution stating that the united colonies were independent states. That they were absolved from all allegiance to the British Crown, and that all political connection between them and the state of Great Britain was to be dissolved. The resolution further proposed that a plan of Confederation should be prepared and transmitted to the respective colonies for consideration. A discussion on the motion followed, during which it was agreed that three committees should be established. Under the leadership of Thomas Jefferson, the first committee was charged with drawing up a declaration that would state the reasons justifying independence. The second committee undertook the task of winning foreign allies. The third committee, headed by John Dickinson, drafted a confederation agreement. Out of the first came the Declaration of Independence, which the Continental Congress approved and officially adopted in Philadelphia on the 4th of July 1776. From the second, Benjamin Franklin and his colleagues managed in February 1778 to draw up a commercial agreement and an essential military alliance that pledged the power of the French monarchy to the cause of American independence. Out of the third committee came a new American government, where John Dickinson reported back to Congress in July 1776 that his group had prepared a document entitled "Articles of Confederation and Perpetual Union". On November

15 the Congress had adopted these Articles, known to be called The Articles of Confederation, as America's formal law (Vaughan, 1976). In the context of decision-making, Page argues that different proposals are identified by the period in which they are considered. It is further assumed that once approved a proposal cannot be reversed, but that a rejected proposal can be approved in any later period. This definition of history dependence requires that the history of proposals influences the set of proposals approved.

One of the first tasks for the American revolutionaries was to establish independent governments, both in each state and at the confederal level. At this time, seven of the newly independent states had already taken formal steps to reconstitute their governments by adopting written constitutions. During this process the makers of the state-constitutions confronted issues concerning the reach of the constitutions, if they were to be seen as fundamental laws, how to incorporate a perspective of electoral politics, how to solve the relationship between the executive and legislative branches, and how to deal with representation and bicameralism. All these issues influenced the period between 1775 and 1787, as a period of experience and reflections for the American constitution-makers, and lessons to be taken to the Constitutional Convention at Philadelphia in 1787 (McKeever, Zvesper and Maidment, 1999).

The Articles of Confederation fails

In the Articles of Confederation measures were taken to guarantee that no strong central government could develop and take power away from the states, which implied that all important decisions such as making war, ratifying treaties, borrowing money, or raising an army and navy, required the assent of nine out of the thirteen states. The central government was given few means to enforce the limited powers it was granted, and could only function as long as it held the goodwill of the states. As additional checks and balances the judicial branch was given limited power, and there was to be no chief executive, except for a president elected and controlled by Congress. On the important matter of congressional representation the state delegates could not serve longer than three years as members of Congress, and each state was permitted one vote, and required to send no fewer than two and no more than seven members to the Congressional meetings. Where Congress actually had some power, most of it was related to the field of foreign affairs. It could deal with war and peace, conduct foreign relations, and settle disputes between the states, but it could not tax foreign or domestic commerce. Expenses required for the common defense or the general welfare was to be met by making requisitions on the states, but the taxes to meet these requisitions could be levied

and collected only by the states. Concerning other fields where Congress was delegated some power was in the matter of executive departments, and it could also set the values of coins, enact standards of weights and measures, and establish post offices. In political matters the central government could advice, recommend, or request, but it could not force the states to act if they did not choose to do so. The Articles of Confederation created a nation in which the central government was severely limited in its authority and could be almost totally paralyzed by action or inaction on the part of fewer than half the states (Vaughan, 1976).

The Articles of Confederation, already from the time of implementation, had signs of weakness. The Congress had no power to force the states to comply with the terms of the treaty, so Congress was not only powerless to control the states, but also powerless to protect the national interest when other countries threatened. When The British Crown was unwilling to give up control over their posts at the Canadian border and Spain their posts in the South, the Congress was powerless to enact any demands and only had negotiate power, which was a weak power concerning the United States need to use the water network of the Ohio, Tennessee, and Mississippi rivers to trade with the rest of the world. To find a solution to this, Congress, during 1782-83, asked the states for contributions totaling 11 million dollars. The states responded with less than half a million.

Another concerning issue was the domestic trade between the independent states. For example the state of New York levied a tax on food coming from New Jersey and Connecticut and put a high entrance and clearance fee on all vessels. Connecticut farmers fought back by boycotting New York markets, while New Jersey retaliated with a monthly tax of thirty pounds on a lighthouse New York had constructed on Jersey property at Sand Hook. Congress looked on powerless to resolve the disputes. The revolutionary turning point was Shay's Rebellion. In Springfield in September 1786 Daniel Shays led some fifteen hundred men to occupy the town courthouse. Armed forces were sent in to stop the rebellion, and the end came quickly, but the rebellion sent shock waves across the nation and across the ocean. There was a fear among the citizens that this could happen again, and the only thing that could provide it was a strong and energetic government. In 1787 the American treasury was empty. Debts to foreign governments and debts to own citizens could not be paid. Anarchy seemed to threaten, because the American Revolution had unleashed new expectations and a new rhetoric of equality and political participation. These new ideas threatened a social revolution that would destroy the rule of law. With no police force of any sort, military or civil, the restoration of law and order was in doubt. Even worse, a political disorder on the highest levels had reached critical proportions. The cooperation among the states had

vanished with independence. Competition and exploitation reigned, and it was in the context of the sense of crisis that the Confederation issued a resolve on the opinion of Congress. The build-up of these external and internal crisis facing the American continent can according to Page be seen in the path of history were the path of previous outcomes matter, and the build-up of behavioral routines and social connections will have impact on the next outcome, in this case, the conventional work-process. On the 21th of February 1787, they decided that a convention should be established and consist of delegates appointed by the several states. The delegates were to meet at Philadelphia in May 1787 to reform the Articles of Confederation (Berkin, 2002).

The Annapolis Meeting

The states of Maryland and Virginia were engaged in a strenuous quarrel over the navigation of the Potomac River, and in the spring of 1785 their respective legislatures sent commissioners to Mount Vernon for a discussion of the subject, bearing on the question of east-west communication in general. Seeing the chance to enlist the cooperation of neighboring states, the commission was enlarged, and met at Annapolis in September of 1786. The agenda setting spoke of crisis in and between the different states, the war depth still hung heavy over the nation, and the credit failed and did not leave much hope for better times. Seven states had restored to paper money, and money printed in one state was to stay in that state. States and sections fought one another over boundaries and tariff laws. New Jersey had its own custom service, nine of them had their own navies, and the shipping arrangements of Connecticut, Delaware and New Jersey were at the mercy of Pennsylvania, New York and Massachusetts. Before the Annapolis commission rose it had recommended to Congress that all thirteen states should appoint delegates to convene at Philadelphia on May 2 1787 to take into consideration the trade and commerce of the United States. In February, previous to the Convention in May, the Congress met in New York to sanction the Philadelphia Convention for the purpose of revising the Articles of Confederation. The Confederation was only resting on good faith among the states and the people, and had no power of collecting taxes, defend the country, pay the public depth, or encourage trade and commerce. It was small states against the large, the planting interests of the South against the mercantile money of the North, and the regulation of the Western Territory which all were immediate problems and experienced as crisis for the development of the American nation. The Articles of Confederation ruling as the nation's supreme law was failing and change was needed to overcome the already existing problems and crisis (Bowen, 1966).

As for the European case, the American context can be argued to show the same path-dependence. Tilly argues that once a process has occurred and acquired a name, both the name and one or more representations of the process become available as signals, models, threats, and/or aspirations for later actor. In all these ways, history matters.

Similarities and Differences between the Historical Events

Prior to both conventions the continents were facing internal and external issues and, to some extent, crisis. In order to develop a stronger European Union and American nation, the pre-historical events ended out in declarations stating new thinking and revision on the already existing procedures. They both faced the need of better structured sovereignty on the central level and a better division of power between this level and the member states. Further, external crisis forged a better structured and common defense policy. Although the content of the events differed, the similarities of the historical events ending up in an establishment of the conventions are present.

Conclusion

In this chapter I have shown how the growing ambitions within the European Union developed from a coal and steel cooperation between Germany and France and into a Union of vanquished internal borders between the Members States and an inner core of strong economic cooperation. The speed of enlargement stated the development within the EU, but at the same time stated the struggle to keep up with the expansion through developing a stronger political Union. These ambitions made the Union become ever more important in the lives of its citizens. In the context of stronger integration through a common fiscal policy and the single market it was a need for adjustments on rules, legislation and habits at the supragovernmental and intergovernmental levels. When the Treaty processes and the Intergovernmental Conferences failed to develop and strengthen the Union within these areas, European politicians decided to establish a convention to convene on the created Declaration decided upon at Laeken in 2001. These guidelines were the point of departure and agenda for the work-processes of the convention.

For the American context the new-born American states faced crisis within finance, domestic control of commerce, and in the area of defense policy. To keep the development of the new nation-culture politicians saw the need to overcome the internal and external crisis. When the Articles of Confederation failed as a tool to develop this growing culture further, politicians met in Annapolis and stated out that delegates were to meet in Philadelphia in 1787. The

Articles of Confederation was failing as the nation's supreme law and change was needed to overcome the already existing problems and crisis.

In the theoretical framework of path-dependence I argue that these particular pre-historical events set the agenda for the work-processes of the conventions, and steered it work towards a single, constitutional draft document.

The two conventions convened 230 years apart, but in the context of pre-historical events leading up to the establishment of the conventions, it is possible to say that these events set the agenda for the work of the conventions. They differ in content, but in both cases the declarations set out at the pre-meeting before they started working, both spelled out a revision of the already existing rules and procedures.

5. The Conventional Structure and Working Methods

"A convention is in definition a formal meeting of member, representatives, or delegates of a political party, fraternal society, profession, or industry. It serves a certain kind of formal structure and working method" (Norman, 2003, my translation).

For the first time in the history of the European Union, representatives of national leaders would discuss proposals for new thinking and more radical changes. The establishment of a convention as a working-forum was not a normal choice for elaboration on reforms and processes in a European constitutional context. However, the constitutional processes contained procedures, discussions and compromises, which showed reforms on constitutional aspects, policy areas, institutions and power-sharing between supranational and national level. Further it showed the effort on how to make democracy, subsidiarity, transparency and efficiency the basic building blocks of the European Union's political structure.

The following discussion takes the representatives of the European convention as a starting point. This part of the organizational structure of the conventions shows a strong difference between the two conventions and a difference in how they were able to influence the work-processes. Further, I argue how the development of formal and informal working-groups and committees within the conventions pushed the work-processes forward. In this part of the organizational structure the two conventions shows the importance of working-groups within organized bodies to steer the work towards the direction of reaching the attempted goals of their agenda-guidelines.

In both conventions the struggle for a better legislation structure and power-sharing at the central level caused many discussions around the question of institutions. The need for compromises to be able to reach the stated goals of a constitutional document is to be seen in

both conventions. These discussions and negotiation processes forced the representatives to see the institution-question from different perspectives to able the conventions to meet the declarations set out prior to their work.

The Representatives of the European Convention

The members of the European Convention covered the representation of two territorial levels; the equality of representation between states, including applicant countries, and the reflection of a broad ideological spectrum. To avoid a specific direct election the European Council designed a number of nominating bodies, which included national parliaments and governments, the European Parliament and the Commission. They all chose its own selection procedure and in that process they managed to show for the presence of representatives from national opposition parties, who contributed to break down the impression of closely defined national interests. The convention was composed of 15 representatives of the Heads of State or Government of the Member States, one per MS. It had 30 members of national parliaments, two per MS. Further on it had 16 members of the European Parliament and two Commission representatives. In addition the convention had representatives from the 13 candidate countries, including Turkey, but they were unable to prevent any consensus which might emerge among the MS. The convention would have a Praesidium composed of the Chairman, Valéry Giscard d'Estaing, the former French President. Close to him the convention would have his two vice-chairmen, the former prime ministers of Italy and Belgium, Giuliano Amato and Jean-Luc Dehaene. In addition the Praesidium would take out nine members already appointed to the conventional work. These nine members would include representatives from Spain, Denmark, and Greece, the three governments holding the six-month rotating presidency during the convention's life. Further, there would be two representatives each of the national parliaments, the European Parliament and the Commission. The Praesidium's main task would be to serve inputs and provide the convention with an initial work-basis. The Praesidium could consult Commission officials and experts on technical issues, and they could set up ad hoc working parties. A conventional Secretariat would provide the necessary assistance, which had the mandate to include experts from the Commission and the Parliament. According to Ivancevich, Konopaske and Matteson, the European convention would be described as formalized, because it was already from the beginning stated out written operating procedures and specified directives for the members to follow. Further, according to Jacobsen and Thorsvik, the size of the convention is also important concerning

the formal structure, meaning the number of the representatives and how they are formally structured.

Further, the convention members had alternates designated in the same way as the full members and would be replacements of the members if they were not present. There would be 13 observers where six were representing the regions, six representing the Economic and Social Committee and the social partners, and the European Ombudsman. The convention gradually constituted itself during the early weeks of 2002. There were 105 full members and 102 alternates, which already here made it bigger than many parliaments. With the involvement of the candidate countries, it was much bigger than the Philadelphia Convention, which agreed the US Constitution in 1787. For the first time in history the Union's national leaders had been willing to involve others in mapping the EU's future, and they established a body in which government representatives would be in a minority. There were 56 national parliamentarians, 28 government representatives, 16 Members of the European Parliament (MEPs) and two commissioners, with an alternate for each of these (Norman, 2003).

The very large size of the convention enlarged the possible number of alliances and, in this way, provided a mechanism for circumventing deadlocks. In addition it must be stated that there were too few women, with only 17 members and 23 alternates. This contributed to a poor advertisement for the EU's policies of equal rights and gender mainstreaming (Eriksen, Fossum and Menéndez, 2004:105-123).

The Structural Effort of Transparency and Efficiency

According to Ivancevich, Konopaske and Matteson, organizational structure refers to relatively stable relationships and processes of an organization. Thus, that the structure of an organization is often viewed as a framework where the focus lie on the differentiation of positions, formulation of rules and procedures, and prescription of authority.

Already in his opening speech the Chairman of the European Convention mapped out three phases for the process of the conventional work. The first phase would be a phase of open, attentive listening. The second phase would be a study phase to examine the questions raised at Laeken, the organization of European institutions from the Nice Treaty, and the various ideas put forward for the future of Europe. In the third and final phase Giscard argued for a broad consensus in the convention, on a single proposal for a Constitutional Treaty to present to the 2004 IGC.

The listening phase allocated the members three minutes to speak on the subject on what they expected from the future European Union. This starting point gave the different levels of

expertise among the conventionnels. The MEPs spoke on familiar ground and already here created a divide with their impatient towards the wasted time of a listening phase. They wanted to get on with drafting texts. Giscard's persistence of its necessity was strong, because he saw national parliamentarians had the need to feel their way in unfamiliar surroundings. They complained of being under-resourced and under-informed. In addition, this first phase organized the Forum and a special Youth Convention in an effort to bring the views of civil society into the convention and make the conventional work as transparent as possible. This forum was a structural dialogue on the internet and over 160 organizations had registered. One the one hand, the Praesidium made an effort to open up the convention and make the conventional work as transparent as possible, but with the hearing of civil society only representatives from eight categories of Non-Governmental Organizations spoke to the convention. Giscard also wanted to involve young people in the convention and proposed a special Youth Convention in his opening speech. Through the Praesidium's Secretariat a Youth Convention was structured for 210 young persons, aged between 18 and 25, to come to Brussels over a few days and hold a convention modelled as closely as possible to the convention proper. When the Youth Convention presented their work they had agreed upon a strongly federal text, including the idea of a welfare Europe with common legislation in the fields of social policy and equal opportunity.

The listening phase, as a conventional starting point, enabled the convention members to learn to work together. It also pinpointed some important markers, and by that moved the debate about Europe's future very decisively in the direction of a Constitutional Treaty, to be based on just one proposal for reform. The organizational structure was a process made by the management, and it was a process of choice of a framework best suited concerning jobs and work projects, which can be seen in the listening phase, as the conventionnels learned to work together.

Dining and wining off the record was established within the first months of the Convention, which showed that the political families were of crucial importance in providing structured links between the members of the various competent groups. These fora, to some extent, ignored party lines, and the conventionnels met in groups of the component governments, national parliamentarians and European Parliament. There were also meetings of national contingents, Euro sceptics, working dinners of the small to medium sized MS and federalist breakfasts.

During the summer of 2002, the convention was in full transition from the listening to the study phase, and the Praesidium constructed conventional working-groups. Each working-

group was chaired by a member of the Praesidium and had up to 30 members. The conventional working-groups were to make the processes more efficient, and they were divided wisely into focus groups in the fields of constitutional issues and policy related issues. Out of the six early working-groups, five focused on constitutional issues while the sixth focused on economic governance and was policy related. Three out of the four later established working-groups was policy related covering justice and internal security and the EU's external relations and defence. A working-group on simplifying the Union's legislative procedures rounded off the constitutional agenda, and Giscard agreed to set up an additional policy related working-group on Social Europe. He also established a group dealing with substantive issues where the EU was accused not to meet its citizens' expectations. These centred on demands for a more effective common foreign and security policy and more EU engagement in justice and home affairs, and how to better handle organized crime and trafficking in drugs and human beings across the EU borders (Norman, 2004).

To examine three very specific issues: the role of the European Court of Justice (ECJ), the system of own resources, and the budgetary procedure, technical expertise was invoked for the composition of these discussion circles. The first arose from plenary discussions and the two latter resulted from the working-group on simplification, which asked for a deeper review of these issues. Their mandates explicitly stated that membership in such discussion circles should be restricted to the experience required for the matter. Their composition, though, challenged the impression that only experts were involved, whilst, in parallel, the steering hand of the Secretariat and the legal services could be seen in their outputs (Eriksen, Fossum and Menéndez, 2004:181-226).

First of all, Ivancevich, Konopaske and Matteson argue that the dimension of formalizing organizational structure refers to the extent to which expectations regarding the means and ends of work a specified, written, and enforced. An organizational structure described as highly formalized would be one with rules and procedures to prescribe what each individual should be doing. Such organizations have written standard operating procedures, specified directives, and explicit policies, which can be seen in the way Giscard and the Praesidium laid down the work-processes for the convention from the beginning. Also, according to Ivancevich, Konopaske and Matteson, the goals and strategies laid down at Laeken and at the beginning of the conventional work as clear directions of the conventional work, are important part of the organizational structure. Jacobsen and Thorsvik argue how a basic for the organizational structure is to position the comprehensive work-task into smaller sub-tasks, and that the participants specializes on some of these sub-task, hence the organization of the

conventional working-groups. Third, March and Olsen argue that the coordination of these work-tasks can be seen as standardisation of results within the context of a convention, meaning that the specifications of the wanted results is laid down in the specific goals of the outcome. In addition to this, they emphasize that procedures in such an organized body can be seen as a bargaining-political procedure. A bargaining-political procedure is here seen as a process by which coalitions are formed, not only the formal working-groups, but also the informal coalitions within the convention. In this context decision-making is normally seen as a process for solving problems. The decision-making process here is formed by individuals and how they tend to form and specialize their attention.

The Working Groups of the European Convention

Group performance is affected in part by group cohesiveness, and the degree of group cohesiveness depends upon the quality and kind of interpersonal relationships of participants assigned to a task or command group. Ivancevich, Konopaske and Matteson further argue that the basis for departmentalization within the structure is how management selects to implicate the relationships. The functional basis places work-tasks within similar depth and range in the same groups. The Praesidium established eleven working-groups to focus on assigned issues, and Giscard and his Praesidium managed through these pinpointed working- groups to steer the conventional process forward and to present decisive documents for the convention in the plenary sessions.

For the Convention to stay true to the goal of producing a Constitutional Treaty, a reformed document which would be easy to understand, the definition of the Union's values and objectives were important. These values and objectives were drawn up by the EU convention in 2000 through The Charter of Fundamental Rights. When Antonio Vitorino, the chairman of the working group on the Charter, drew up its mandate at the end of May 2002, he focused on technical issues. The group should not be involved with the major political questions of whether to incorporate the Charter or accede to the European Court of Human Rights (ECHR), but leave it to political debates in the plenary sessions. When Vitorino's group reported in late October, it decided that the Charter should be incorporated in the Constitutional Treaty, and that the Union should be able to accede to the ECHR, while leaving the modalities unclear in both cases. Vitorino further stressed that the group's decisions would give no new competences to the Union, that there would be no change of substance to the Charter, and even if the Charter were legally binding, the group said jurisdiction in action relating to it would lie principally in the courts of the Member States. The group made it up to

the Council of Ministers to decide unanimously on the separate issue of the EU acceding to the ECHR, but it gave the idea powerful backing by stating that accession would highlight the moral and ethical commitments of the Union, and give citizens the same degree of protection of fundamental rights both on EU - and national level. In this context it is important to mention the plenary discussion on competences that increased the idea of a specific catalogue of competences, because the Treaties were complex on the issue. The plenary sessions on competences discussed a hybrid solution, which would include both principles and detailed lists of different type of competences. It should be carried out in accordance with the Treaty and in compliance with the principles of subsidiarity and proportionality.

The Commission's Penelope document over competences gave the content an entirely different approach. It highlighted various gradations of responsibility given to the Union. The Union's internal policies would be classified in terms of principal policies, flanking policies and complementary actions to avoid any rigid classification of powers. In a constitutional process dimension, the legacy of the working-group was in one way eluding the big enterprise the Convention had turned out to become, and to push the work-process, the Convention saw subsidiarity as closely bound up with the competences. Therefore, the working-group on subsidiarity, chaired by Inigo Mèndez de Vigo, agreed to a module of a Constitutional Treaty and demonstrated that the convention could move swiftly and pragmatically to produce concise and easily understandable political results. The group managed successfully to bring together the interests of the convention's federalists and its national parliamentarians. The working-group concluded that subsidiarity could be both applied and monitored better, and set out ways for the Commission to take greater heed of subsidiarity in drafting legislation, including a subsidiarity sheet in each draft law. It proposed the creation of an early warning system, allowing national parliaments to join in the monitoring of compliance. The Commission would have to tell each national parliament of its legislative proposals at the same time as the Council and the European Parliament. This meant that national parliaments could object to the legislature within a sex-week period to the President of the Commission, and depending on how many parliaments raised objections, the Commission would have to re-examine its proposal to maintain, amend or withdraw the proposal. Should these political steps yield no results, the aggrieved parliament could refer the matter to the EJC. In a move that would give new power to the Committee of Regions, the working-group suggested that it too could turn to the Court in certain cases. That would be when the Committee had been consulted and found that a piece of legislation was against the principle of subsidiarity. The

subsidiarity group's final report hailed the early warning system as innovate and bold, and the subsidiarity group represented a useful step forward.

The working-group on simplification was chaired by Giuliano Amato. His working-group came up with proposals that simplified both legislative procedures and instruments. In the 5[th] of December plenary debate on simplification, Alain Lamassoure said Amato had earned the stripes of a founding father of Europe. On procedures it produced two profoundly important recommendations: co-decision, by which the Council of Minister and the European Parliament were equals in legislating, should become the general rule of the adoption of legislative acts, and should be known as the legislative procedure in the Constitutional Treaty. Qualified Majority Voting (QMV), meaning more than 72 per cent, in the Council and co-decision should automatically go hand in hand. This recommendation transformed the debate over the group's reports from the technical platform to the political platform. The legal instruments were cut from 15 to six, and Amato's group gave them more understandable names during the process. The problems around the financial system were the procedures for agreeing the budget. An allied issue was to determine the proper role of the democratically elected European Parliament, which had no control over revenues and control over only half the Union's spending. Amato's group on simplification urged a streamlining of the annual EU budget process, so that setting expenditure would be a similar procedure to co-decision between the Parliament and the Council. The layout would be for The Commission to submit a preliminary draft budget to the Parliament and the Council, which would be decided in the Council by a qualified majority, while The Parliament would have the last word. The group laid out a Union tax-system by which the Union might take a share of national taxes, which could help promote a European demos. For this reason, it was a step too far for the traditionally less integrationist's governments such as the UK, Sweden and Denmark. The plenary discussion on Amato's report revealed consensus on the need to list the main budgetary principles of the Union, but discord on other issues. Giscard concluded that the group's ideas for reform of procedure needed more study with the result that the EU's finances remained unresolved until fairly late in the convention (Norman, 2003).

The convention representatives had longer discussions over a more effective European foreign policy and action to combat organized crime, terrorism and trafficking in drugs and human beings. Further, the successful introduction of Euro notes and coins on the 1[st] of January 2002, increased integration on economic and social policies. This bold action would strongly balance the construction of Europe's Economic and Monetary Union with its federal monetary policy and decentralized fiscal policies. However, these discussion over the new and

expanding policy areas of foreign and defence policy, economic and social policy, and justice and home affairs, all drew up differences between conventionnels on the question of greater integration. The working-groups on policy areas were therefore established, but not to change competences or powers on either the national nor supra-national level, but to try to improve the coordination of policies to ensure the Union's common actions.

In the matter of external relations the convention gave the job to Jean-Luc Dehaene, the former Belgian Prime Minister and Vice-President of the Convention. Dehaene presented a substantial report on external affairs. His group had drafted a work on the central question of how the Union should organize itself in order to effectively and coherently promote fundamental values, how to defend common interests, and contribute to the overall objective of global peace, security and sustainable development. Dehaene's document was a building block for the conventionnels and it made the group focus on how to coordinate and consolidate the two different channels of EU decision-making, meaning the Community Method and the intergovernmental point of view. The common foreign and security policy (CFSP) would stay intergovernmental in character, and it would remain the job of the European Council to define EU strategic objectives and interests, and establish parameters to guide action made both on the Supragovernmental level and within the Member States. This line of documented actions was a great progress in the work-process. The group reported a high degree of support for separating a distinct External Action Council (EAC) from the General Affairs and External Relations Council, with a significant number of members wanting the High Representative (HR) to chair the EAC without a right to vote. The group considered ways of linking the posts of HR and external affairs commissioners and set in motion ideas that would result in a proposal for a European foreign minister. One of the distinctive features of Dehaene's report was the support it gave to more QMV in foreign policy. Dehaene's report agreed that maximum use should be made of the provisions for QMV in foreign policy, and recommended that the Treaty should allow the European Council to extend the use of QMV in CFSP. The work of the group through the leadership of Dehaene played a large role when the convention negotiated the final drafts.

The working-group on external crisis, chaired by Michel Barnier, wanted to expand tasks such as conflict prevention, joint disarmament operations, and support for third countries combating terrorism. The group suggested greater flexibility in decision-making and action to enable Member States to cooperate more closely. Again the need to boost the role of the High Representative was discussed. The HR would have a right of initiative in crisis management matters' and be empowered to take decisions in urgent cases, but would be very clearly

reporting under the authority of the Council and in permanent contact with Member States' representatives in the Political and Security Committee (PSC).

The convention showed support for the idea of a collective defence clause in the reformation of the Treaty, which would provide for the mobilisation of both civil and military means to help Member States deal with threats of terrorist attacks. The convention faced sharp divisions on extending such solidarity to a general collective defence clause, but at the same time there were calls for a greater EU role in justice and security, in action against cross-border crime, in control of migration flows, and reception of asylum seekers. John Burton, one of the representatives of the Irish parliament, concluded that the battle against crime was an arena which the EU could demonstrate its relevance to its citizens in the most visible way. In addition to come up with many practical suggestions to make the Union more effective in the area of freedom, security and justice, his working-group also reinforced the drive for simplification of the Treaties by proposing a common general legal framework, which would group all Justice and Home Affairs (JHA) provisions under a single title of the Treaty. Burton's group gave a push to existing plans for a common European asylum system by recommending that qualified majority voting and co-decision be applied in the Treaty to legislation on asylum, refugees and displaced persons. It urged that a common policy on immigration should be enshrined in the reformation together with Union allowance to provide incentive and support measures to integrate legally resident nationals of third countries with QMV and co-decision. The final report from this working-group received broad support in the plenary debates. On the issue concerning cooperation in criminal matters from unanimity to QMV and co-decision, and on legislation fixing the minimum rules for dealing with very serious cross-border crimes.

On the issue of economic governance, the working-group backed the status quo, leaving the monetary policy of the Euro to be exercised by the European Central Bank (ECB). The group split several ways. They could not agree upon how to improve economic policy coordination, or how to support the role of the Commission in policing the EU's Broad Economic Policy Guidelines (BEPG), which constituted one of the main tools of economic policy coordination. The economic governance group also divided along party lines between right and left on whether the Treaty should take more account of Social Europe, and Giscard had to accept the creation of a new working-group on Social Europe to take this debate further.

Social Europe was an essential part of European integration. The Social Europe working-group was chaired by George Katiforis, the Greek government representative and Praesidium member. By the time the group reported to the plenary on the 6[th] of February 2003, activity in

the Convention was picking up. The first draft articles were published on the same day, so the articles failed to include the additional social values agreed by the group and the long list of 14 social objectives were put forward as amendments.

Even though policies and their areas were not of a constitutional character, they were important for the European constitution-making process. It was therefore important for the working-groups dealing with the different policy areas to manage to come up with good suggestions for their future design, meaning that too many disagreements and negative debates over the subjects could create a too big divide within the convention and unable it to create an end document as a European Constitutional Treaty (Norman, 2004)

Ivancevich, Konopaske and Matteson argue that to understand the nature of groups within organizational structure there is a need to explore various types of groups, and that the representatives within the convention will be placed on their position and expertise. These conventional working-groups can be seen as task-groups that comprise the representatives within each group to work together to complete a particular task or project to progress the work towards the common end goal.

Table 1: The Working Groups of the European Convention

Competences (Constitutional)	Policy Areas
The Charter of Fundamental Rights	European Foreign & Security Policy
Complementary competences	Crisis Management & Peace Enforcement
Subsidiarity	Economic Policy
Coordination	
Simplification	Social Europe – for
Integration	Defense Policy

The Institutions of the European Union

The postulated procedures in an organized structure can be seen as bargaining-political procedure. In this case the definition by March and Olsen to see it as a process by which coalitions are formed and alliances are built to have enough power to enforce a joint solution

to a decision-making process. Decision-making is normally seen as a process for solving problems, but this can only happen when the decision-makers make action possible. On the question of how to share out the power of the Member States in the EU institutions, the conventionnels discussed the role of the European Council chairman and how he or she was to be elected. They agreed that the chair-person could be a member of another EU institution or hold a national mandate. The plenary debates also backed the idea of a separate Legislative Council for law making and that the Council's legislative powers should always be exercised in public. The government representatives broke the habits of the convention. They allowed participants to sit behind cards bearing the names of their countries, rather than own names, and with this they reinforced the members identity as government representatives. Through this, 18 government representatives backed the six-month rotating president of the European Council against five supporting a full-time elected chair. 18 were against reopening the Nice agreements on the weighting of votes in the Council of Ministers, the number of European Parliament seats and the structure of the Commission. If the Commission had to be downsized, equal rotation among Member States should apply.

The MEPs conventionnels opted for a single document and signalled willingness to compromise. Like the national parliamentarians, they suggested that the Commission retain one member per Member State until 2009, but with the eventual Constitutional Treaty laying down the rules for the period afterwards. In return for having the European Parliament elect the Commission President, they agreed to a long-term President of the European Council. Through this, the convention had passed a decisive turning point. The MEPs and their integrationist's allies among the national parliamentarians – linked through the political families – continued to strengthen Giscard's hand to the final day of the convention. The Praesidium decided to drop some of the more intergovernmental features of its previous institutional proposals in favour of ideas that were among protective of the existing power balance in the Union's institutional triangle. It abandoned the board to support the longer term President of the European Council. It also agreed that the European Council President could hold office in another EU institution, while keeping the restriction that he or she could not hold a national mandate. The conventionnels in favour of a complete text urged for more Europe, and the once against was once more on the defensive. Fronted by Giscard, the Praesidium kept the institutional questions to be solved at the end of the convention, and only to be discussed in plenary sessions (Norman, 2003).

The idea that the Union should have a more effective foreign and security policy was strongly embedded in the convention. One the one hand was the advocates for an enhanced

Community Method for the Union, who wanted to see external affairs become a responsibility of the Commission. On the other, were the intergovernmentalists who wished to see the HR reinforced. It was suggested either to keep the roles of the HR and external affairs commissioner separate while proposing practical measures to strengthen the HR's role and increase synergies between the two jobs, or even a full merger of the HR's functions into the Commission. This federal approach would apply the Community Method to external relations and greatly increase the Commission's powers by making it responsible for policy initiation, implementation and external representation in all areas of EU external action.

The Council of Ministers lacked democratic accountability and was untouched by Montesquieu's ideas of a separation of powers between the legislative and executive. For this reason alone, there was a strong intellectual head of steam behind the idea of a separate Legislative Council, which would be equivalent to a second chamber of the European Parliament, representing the States.

The Commission represented the common European interest in the institutional triangle. The election of the Commission President by the European Parliament would kill several birds with one stone. It would increase the democratic legitimacy of the Commission and so, it was argued, strengthen it as an institution. Election by the Parliament would enhance its own role, and could generate some positive spin-off in terms of greater voter interest in the European Parliament elections. As a properly elected office holder, the Commission President should also enjoy more clout in the European Council, where he or she was to be the only non-elected leader. All three consequences would be good news for integrationists, and therefore strongly supported by most MEPs and representatives of smaller governments and by Germany, the most federally inclined of the big Member States. The question of how to appoint the other Commission members depended largely on the answers to the questions over the number of commissioners and the process of choosing its President. If the Convention decided to strengthen the Commission President by making him or her elected, it would be logical to give the president-elect a greater say in choosing the college. The exact size of the college would depend on the choices made in question on location of the foreign minister in the institutional structure. There were many discussions over the institutional implications in the Council and the Commission, but the discussions over a directly elected Parliament tended to be less controversial. The directly elected Parliament operated with a manifest inequality of representation to the disadvantage of the big Member States. The system, known as digressive proportionality, meant a member for Luxembourg represented 72000 citizens while a German MEP represented 829000. A big worry concerning the

Parliament was its democratic legitimacy, or the lack of it. Giscard's idea on the matter was to bring together members of the European Parliament and members of national parliaments from time to time to review the state of the Union. His idea of a Congress would have no legislative power, but he suggested that it would be consulted on the Union's development and possible future enlargement. As well as hearing reports from the President of the European Council and the Commission President, it could make appointments to certain high political offices in the Union, and it could be seen as a bridge to overcome the gaps between national and European politicians.

The issues concerning the European Court of Justice were less politically charged than those relating to the Union's policy-making institutions. A special discussion circle, chaired by Antonio Vitorino, met early in 2003. It considered the procedures for appointing judges, whether to shift some laws governing the Court from unanimity to QMV, whether to extend judicial review to the acts of the Union agencies and bodies, and whether to make the penalties for non-compliance with Court judgements more effective. The reform agenda was whether the Court of Justice should have jurisdiction against acts of the CFSP or not. It was agreed to set up an advisory panel to help MS select the correct candidates to be judges. It renamed the Centre for Inquiry (CFI) the High Court to reflect the fact that the Union was planning to set up further specialized courts. The specialized courts were made the subject of laws to be passed by QMV. In an important change the Convention decided the Court should be able to review the legality of acts of agencies and bodies. It adopted simplified wording to help give individuals' access to the High Court in carefully defined circumstances. On foreign policy, it stipulated that the Court would have no jurisdiction over foreign and defence policy, although it would be able to rule on the legality of sanctions imposed by the Union (Norman, 2003).

The President and its two vice-presidents met, one with each group, to present compromises. For the Council of Ministers, the Praesidium proposed a General Affairs and Legislative Council to overcome the strong hostility of Member States to the idea of a special legislative Council with two functions: the General Affairs Council would, in liaison with the Commission, also prepare the European Council meetings. Already planned, there would be a Foreign Affairs Council chaired by the Union's foreign minister. The European Council would be a separate institution to meet every three months and have its own President elected by QMV among its members for two and a half years, renewable once. There would be no board, but the President however, could hold an EU office. QMV would be the general rule for decisions in the Council of Ministers, except where specified in the Constitutional Treaty. The

new provisions strengthened the Commission and the Commission President. The Commission would oversee the application of Union law; ensure the Union's external representation for areas falling within its responsibility, and initiate the Union's annual and pluriannual programming. The European Parliament would keep their 732 seats until the 1st of November 2009, when it would introduce the principle of digressive proportionality for the allocation of seats, with a minimum threshold of four per Member State. These new proposals were supported by a significant number of representatives in the convention and were a breakthrough for the final consensus (Norman, 2003).

The Organizational Structure of the American Convention

The American Constitution was developed within the frame of a convention. Among the members the American population had men like James Madison, Benjamin Franklin, Thomas Jefferson and George Washington to pave out a new future on the American continent. The Philadelphia Convention is often referred to as the 'Convention of Delegates', because of the strong men who fought for and managed to implement a strong and long-lasting reform. Instead of reforming the Articles of Confederation they established a new government for the nation, which contained changes of the institutional structure, with proportional representation in the House of Representatives, equal representation in the Senate, and a President as head of the executive branch. It also changed the arrangement of power-sharing between the federal level and the states. The paradigm-reforms written out in the Philadelphia Convention were reforms to make the Constitution of the United States of America the oldest and strongest constitution in the world today.

The American Delegates

Concerning the formal structure, also in the American context the argument of organizational representation and size can be stated as important in its number of representatives and how it was formally structured. The organizational structure of the American Convention had fifty-five enrollments, but no more than eleven states were present at the same time and an even lower number, approximately around 30 delegates, at any given meeting. This was despite the fact that the assembly establishing the convention and appointing their delegates had put no restraints to how many delegates each state could send to the conventional body. The problem facing the American continent at the time was the challenge finding qualified and willing delegates. Out of the fifty-five delegates that eventually attended, every one of them was men. The delegates were young, but with one exception, Benjamin Franklin was over 80. Most of

them were in their thirties, and some even younger (Bowen, 1966). Further, they were men of wealth and comfort. They were landowners, slaveholders, lawyers, merchants, land and securities speculators, and doctors, and they held a monopoly on formal education and professional training in a predominantly agrarian society. The majority were lawyers, and they brought to Philadelphia a familiarity with political forms and political forums born of experience and training. There were no questions of the delegates class, gender, or racial bases, and they showed little or no discomfort when they spoke of 'equality' or 'unalienable rights', although they represented a society that sustained slavery and female subordination. They shared the same background concerning wealth, education, and political experience, but they varied in personality and character. In this gathering of men it became clear very early in the conventional process that some delegates with strong voices would dominate both the process and the outcome, which in turn would shape the debates, the controversies, and compose the compromises (Berkin, 2002).

The Procedures and Processes of the American Convention

The American Convention held every session secret, and very little news leaked out, just the delegates' letters to their friends could be a source for what was going on in Philadelphia in the summer of 1787. If it was not for James Madison's notes the history would not been able to tell what really happened within the convention. Neither to the delegates nor to the country at large was this meeting known as a constitutional convention (Bowen, 1966).

The dimension of formalizing organizational structure refers to the extent to which expectations regarding the means and ends of work are specified, written, and enforced. According to Ivancevich, Konopaske and Matteson, a highly formalized organizational structure would be one with rules and procedures. The first order of business for the American delegates was to select a presiding officer. The delegates chose George Washington to serve as their Convention President. Further they settled practical issues like secretary post and salaried post. The convention then named a committee to prepare a set of standing rules and orders (Berkin, 2002). The convention rules were simple and took account of courtesy, convenience, and of formal manners. Every member rising to speak should address the President, and while speaking he should not be interrupted. No one was allowed to hold discourse with another, or read a book, pamphlet or paper. Further, the delegates could only speak twice, without special leave, upon the same question, and the second time had to be after everybody who wanted to speak on that particular issue. A further rule stated that seven states were to make a quorum, and all questions to be decided by a greater number of these.

There was an excellent rule providing for reconsideration of matters that had already been passed on by a majority. Again and again, in Committee of the whole, the rule would go into action and a subject already voted upon would next day be reconsidered. This procedure was made more effectual by objecting to a rule authorizing members to call for the 'yeas' and the 'nays' and have them entered in the book. The convention was to be formal and parliamentary and behave as an authorized assembly. To grow into some acquaintance with each other, the states represented in the process met every morning for consultations and also shared many dinners. On most mornings the room resembled a large committee gathering, each man was introduced and presented the credentials form his state legislative. Mostly these credentials stated the fact that the convention only should be a working-forum to revise the Articles of Confederation, but some of the state-delegates took it further, and through the work in the states morning consultations and the large committee gatherings, the convention managed to move the convention towards a work on a constitution for the United States. Especially Virginia and its delegates took its freedom in the convention room to speak of more than revising the Articles of Confederation. It was at these meetings that the Virginia Plan was presented, with its fifteen Resolves to be the core foundations of the work of the convention (Bowen, 1966).

The organizational structure of the American Convention had a low techno-structure compared to the European Convention, but it was formally structured concerning the dimension on formalized rules and procedures, specified directives, and explicit policies for the delegates to work under. Jacobsen and Thorsvik argue that there are to main characteristics in organizational structure, namely goals and strategies and formal organizational seen through shared labor and specialization, and management and coordination. The first one can be seen in how they operated out of a clear defined goal given from the Annapolis meeting. The second comes into play when the 15 Virginia Resolves are presented, and the organizational structure then gives room for more free action within shared labor and more free political action.

The Impact of the Virginia Plan

Table 2: The Virginia and the New Jersey Plan

Virginia	New Jersey
Two legislative branches: The House of Representatives and the Senate	A Congress with a single legislative chamber in which the states voted equally, without regard to population or wealth
The legislative powers to derive from the people	The legislative powers to derive from the states
A single executive, a President	More than one to form the executive
A majority of the legislative can act	A small majority of the legislative can control
The legislative branch has a negative on all state laws	Giving power to the executive to compel obedience by force
Remove the executive by Impeachment	Remove the executive on application of a majority of the states
Inferior judiciary tribunals	No provision for the judiciary

James Madison, a Virginia lawyer, presented the first coherent proposal to the convention. His Resolves, known as the Virginia Plan, set the agenda for the conventional debates.

The delegates in the convention faced a twofold problem; they had to agree upon a government choice of a democratic, limited monarchy or a republic government, and the practical problem of creating such a government with all its untried component parts. Edmund Randolph, the Governor of Virginia, introduced the Virginia Plan and its fifteen resolutions. Even though the first of these called only for the Articles of Confederation to be corrected and enlarged, the fourteen that followed would correct and enlarge the Confederation into a completely different government. What the Plan outlined amounted to an entirely new national government, with a national executive, a national judiciary and a national legislature of two branches. The first branch was to be elected by the people, and the second branch was to be elected by the first branch. Even though the Virginia Plan was vague on all these issues, the Virginia Resolutions provided a governmental and structural blueprint for the new Constitution. James Madison relied on the diffusion of power among three branches – legislative, executive, and judicial – to thwart the temptation of tyranny. The Virginia proposal was a bicameral legislature, with one house popularly elected by eligible voters in every state

and the other elected by the members of the first house nominated by the state legislatures. Most controversial of all, membership in both houses was to be based on proportional representation. The delegates had to agree on the form the legislative would take, on its powers in relationship to the state legislatures, on who the legislature would represent, and how its members would be chosen to serve. For the rest of the conventional work the Virginia Plan was to form the basis of the convention's procedure to be debated clause by clause in the Committee of the whole, with every Resolve reconsidered, re-argued, passed or discarded (Berkin, 2002).

Resolutions 2-6 in the Virginia Plan dealt with the form and powers of the legislature, so the convention started with Resolve 7 concerning the executive branch. They began with an issue that would not turn small states against large, region against region, or protectors of state sovereignty against nationalists. Few delegates disagreed that an executive branch should be created. The Virginia Plan offered little on the composition of the executive, the mode of election, the specifics of its duties and obligations. Concerning the executive branch the convention agreed to make it ineligible for a second term after seven years and then took up the question of whether the executive was to be one person or several persons. Although they had tried to avoid it, it was obvious that they would not resolve key issues about the executive branch until they answered key questions about the legislative branch. The rules of the convention made it clear that the delegates had to find methods to solve any arisen issue, and they debated and discussed proportional representation versus state representation, how to elect members of the legislature and what their number would be, and how to able the branches to cooperate and at the same time restrain one another (Berkin, 2002).

The original Resolve number 3 in the Virginia Plan was that the national legislature should consist of two branches; the Senate and the House of Representatives. Without much discussion or debate the Resolve was agreed upon with seven yes and three nays, and the convention had already from the beginning decided that seven states was enough to make a quorum. Resolve 4, for popular election of the federal House of Representatives also passed without much debate.

In the first days of the conventional work, many of the men were not ready, meaning they did not have the knowledge about the questions and the processes that the convention was to discuss. Especially the small-states men were not ready, and therefore, many of the already solved questions would come up again at a later stage in the conventional process. This can be seen in the "yes" to the Resolve 6 of the Virginia Plan, where Randolph had suggested that the Congress should have authority over state laws. Later on this was to cause heated

disagreement and to be voted down. Resolve 5, concerning the United State Senate, came up again. The delegates discussed the numbers of senators and how they should be elected. The Committee agreed that members of the national Senate should be appointed by the state legislature. Virginia's 7th Resolve concerned a national executive, and when they had decided that it should be one person, the debates to come would contain how to restrain and control a single executive. The presidential veto was a vital matter, because experience had caused citizens to be chary of the executive power. Virginia's Resolve number 8 suggested that the chief executive, together with a convenient number of the National Judiciary, should compose a council of revision to examine acts of Congress before they became operative. From Benjamin Franklin's side, and some other delegates, the fear was that if the executive were given a negative on acts of the legislature, he would demand more and more power until at last the legislature would be in complete subjection to the will of the executive. The discussion on the executive and of an absolute veto for the executive gave unanimity in the plenary session. On these variations of the executive revisionary power the states voted, but agreement was not reached, nor would be until June the 18th, when the Committee finally granted the veto power to the executive, subject to overruling by two thirds of Congress, and so it would stand in the Constitution. After this discussion, Resolve 8 came up. This Resolve discussed whether the United States should have the judicial branch join the executive to revise the laws. The objection to this was that the judges, when cases came before them, would stop the operation of such laws that were repugnant to the Constitution. They should therefore have no part in making them, not even the negative power of veto. The 9th Resolve concerned the appointment of inferior tribunals. On this question, Dr. Franklin rose again, and said that the 9th Resolve should be that lawyers are appointed by the legislature. In the Committee of the Whole the states voted, approving nine to two. The rest of the day was used to review the remaining six Virginia Resolves. The 10th was affirmed without dissent. Provision ought to be made for the admission of States lawfully arising within the limits of the United States. Resolve 11 guaranteed a republican government to all states. It was postponed by New Jersey, which meant that the point of representation first was to be decided. Virginia's 12th Resolve went through without debate. It claimed for the continuance of Congress until a given day after the reform of the Articles of Union should be adopted, and for the completion of all their engagements. Resolve 13 provided for amendment of the Constitution, without requiring the assent of Congress. It was postponed on the opposition of three states. The next proposition, requiring state officers to take oaths supporting the national government, was also postponed. Virginia's last Resolve, number 15, concerned ratification.

The question of ratification was postponed for future considerations. Resolve number 4 in the Virginia Plan was the thorniest of the discussions among the state-delegates in the convention. Were the members of the first branch of the National Legislature ought to be elected by the people of the several states or not? The first branch means the House of Representatives, and in the Committee of the Whole the votes had gone six to two for popular election. In particular the small states had problems with this question, concerning whether popular election meant proportional representation. A suggestion on how to solve this came from Charles Pinckney form South Carolina. He stated that the people were less fit judges, and if the state-legislatures were excluded from such an important process, they might refuse to adopt it. Elbridge Gerry agreed with Pinckney that the state-legislature should appoint the representatives in Congress. His idea was, though, that the people could nominate certain persons from their districts, who in turn would do the final adopting. The debate and disagreement over this 4[th] Resolve lasted long. It was the big states against the small, ten against three, where the small states would never consent to proportional representation. The Convention delegate Roger Sherman raised his proposal on the matter which, although it did not reached agreement that day, was a proposal that eventually saved the convention. The question was the critical problem of how to apportion votes in Congress, where the small states wished an equal vote and the large states a proportional one. Sherman proposed that the proportion of suffrage in the first branch, the House of Representatives, should be according to the respective numbers of free inhabitants, and that in the second branch or Senate each state should have one vote and no more. The Sherman compromise settled the question on representation in the House of Representatives (Bowen, 1966).

At this point in the discussions James Paterson from New Jersey announced that several of the deputations wished to prepare another plan, purely federal and contra-distinguished from the Virginia Plan. The New Jersey Plan retained the basic structure of the Confederation with its unicameral Congress and its one vote for each state. In addition the Plan set out a compromise between the Confederation's executive committee system and the Virginia Plan's independent executive branch through the creation of an executive board, elected by the legislature, but removable by a majority of state governors. The Plan also contained provisions that revealed its bias toward small-state economic interests. Under the New Jersey Plan, the national legislature would enjoy the right to lay duties on imports and to provide protection for the smaller states. Further, it would be empowered to tax the state governments on the bias of population and to collect those taxes by force if necessary. The large states would thus be saddled with more taxes, but deprived of any extra power (Berkin, 2002).

At this point the New Jersey Plan was presented by the smaller states, but James Madison picked the New Jersey Plan to pieces, point by point. The convention voted on whether the Virginia Plan or the New Jersey plan was preferable. The states voted seven to three, and the New Jersey Plan was dead. But the battle over Congressional representation was still to be solved. The convention elected a Committee with a member from every state to work out a compromise, concerning representation both in the Senate and the House. In this question the convention after long discussions reached a compromise, later to be known as the Great Compromise of 1787. Every State was to have two members in the United States Senate, and the House of Representatives a proportional representation. This compromise managed to move the conventional work easier, because the smaller states, for their win of the non-proportional voting in the Senate, were reedier to meet the bigger, and even willing to yield on many questions. In these discussions Gunning Bedford reminded the convention of the dangers of foreign intervention and foreign bribes. America needed to constitute a strong United States. They feared that if they could not come to some agreement among themselves, some foreigners would gladly do the work for them (Bowen, 1966).

According to March and Olsen, the postulated procedures in an organized structure can be seen as bargaining-political procedure. A bargaining political procedure is here seen as a process by which coalitions are formed and political bargain struck. Further, in the case of bargaining political procedures it is assumed that the preferences of the individual participants are reasonably well-specified, that the structure of the political game is reasonably clear, and that participation and power are reasonably stable. As for the American Convention, and also seen in the European context, the political bargaining can be seen in the ability and effort of the delegates to compromise on difficult issues and for that reason push the conventional work-process forward.

The President of the United States of America

The convention began to re-conceptualize the executive branch. Delegates had begun to talk of the President as the representative of the people and as the people's guardian against legislative hubris. This new vision was never embraced by the entire convention, for the fear of executive tyranny remained strong. The new concern about unchecked legislative power reopened the debate over the mode of electing the President. To let the legislature select was to give too much power to this branch, but to let the people select was to risk that the will of the uninformed would be expressed. The answer in the convention was that the executive

would consist of a single person rather than a triumvirate, elected by both houses of the national legislature to a term of seven years, without eligibility for reelection (Berkin, 2002).

The Structural Effort of the American Committees

The convention appointed a small committee – the Committee of Detail – to set their resolves, suggestions, amendments and propositions into workable arrangements. The work of this group was the Virginia Plan once more amended. For their August report the Committee of Detail had as model the Virginia Resolves, Charles Pinckney's Resolves, Paterson's New Jersey Plan, the Articles of Confederation and all of the state constitutions. What the Committee of Detail had in their hand was a clear design for a government of enumerated powers, bold national, and directed at the people as individuals rather than the states as corporate bodies. The executive remained a single person, elected by both Houses of the legislature for a seven-year term, without possibility of reelection. He had exclusive veto power over legislation, reversible by a two-thirds vote of the legislature, and could be removed from office if impeached by the House and tried and convicted by the Supreme Court. He could appoint all government officials whose selection had not been specifically granted to other branches (Berkin, 2002).

The power of Congress were to lay and collect taxes, power to regulate commerce with foreign nations and among the several states, the establishment of post-offices, coining and borrowing money, setting up of judicial tribunal, to subdue a rebellion in any state on the application of its legislature, to make war, to raise armies and to build and equip fleets.

The convention called for a government in three parts: executive, legislative and judicial. No one had disputed that basic proportion, but the details around it had been a continued and unremitting struggle over principles. To define treason, determine the seat and extent of the taxing power and the proportion of representatives from state to state – these very important details, as finally agreed on, were to change the United States from a Confederation to a workable, lasting Federal Republic. Two balanced powers: Congress and the executive, states and central government, with the judiciary as umpire, were to be a triumphant conclusion (Bowen, 1966).

On September 12[th] the Committee of Style was scheduled to report the final draft. The Committee had taken the twenty-three articles and combined them into seven, gathering together all the decisions on the legislature, executive, and the judiciary in such a way as to finally make the form of the new government clear. It recaptured the nationalist vision of a supreme central government capable to bring the country together by overcoming the division

among its competitive states. The draft spoke simply but powerfully for "We, the people of the United States", where the preamble did no more than declare that the Constitution that followed was ordained, declared, and established by the people of the United States. The newly recorded and renumbered articles, sections, and subsections in the body of the Constitution reflected an explicit hierarchy among the branches of government (Berkin, 2002).

The Bill of Rights

The Bill of Rights was rejected by the Philadelphia Convention, but was to serve as the first ten amendments to the American Constitution. The Bill of Rights was rights for the citizens and put restraints on both the states and the federal level in their relationship to the citizens. Congress submitted those restraining amendments to the states for ratification on September 25, 1789, and the requisite number of state legislatures ratified them by December 15, 1791 (Levy, 1999).

Similarities and Differences of the Organizational Structures

In the composition of organizational representatives and representation the conventions differed on all aspects. The European convention had representatives from both the supragovernmental level and intergovernmental level, including members of the opposition parties and women. The American delegates consisted only of young and educated men from the different states. Further, the European convention tried to mirror their environment by including Non-governmental Organizations (NGO) and to establish a Youth Convention for discussions on the same tasks as the convention proper. They also established an internet forum for the publications of the conventional work. In the American convention all sessions were held secret, because the delegates fared that the influence of the common man in the nation states would collapse the conventional work of a strong, revised document for the new American government.

Both conventions established working-groups and committees on the matters of the different tasks they had to deal with. As shown in the discussions above, these groups had strong impact on the work of the conventions and their legacy was emphasized contributions for the conventions to reach their outlined declarations. In volume, the working-groups of the European conventions was much bigger than the committees of the American convention, but they served for the same reasons; to put flesh to the already established blueprints of the conventional guidelines, and to progress the work of the conventions to reach their end goal.

The European convention had a skeleton drafted by Giscard, which served as a steering text throughout the conventional work. The same can be said about the Virginia Plan drafted by James Madison. Also, both conventions discussed the most on the questions around the institutions and the power-sharing between them and the states. Although the content differed, the conventions had to compromise the outcome of these discussions to finish their work and be able to present a final document.

Conclusion

For the first time in history a convention was introduced to discuss conventional questions. For both the European and the American conventionnels the organizational structure of the representatives and the working-groups and committees, affected and had strong impact on the working-processes of the conventions.

From this discussion it can be claimed that the legacy of the working-groups in the European convention, and the committees in the American convention, not only pushed the conventional work-processes forward, but also spanned of some of the strongest contributions to the final constitutional documents.

6. Political Leadership and Strong Conventional Contributions

In the context of organizational leadership theory this chapter will elaborate on how the strong contributions from groups and single members of the conventions influenced the work-processes. Both conventions received many proposals from the members, and especially the European convention had many contributors. In this context it is important to underline that I have only elaborated on a few of them. I have chosen to look at those, in my opinion, which had the strongest impact on the working-processes, and because these a better documented, at least for the European Convention.

I elaborate on the conventional blueprints of the conventions, on the legacy of the working-groups, on the strong contribution of the European Commission, and on James Madison's notes from the work of the American Convention.

Giscard's Constitutional Skeleton and the legacy of the Working-Groups

The Praesidium draft was seen as a significant step, and opened the way for a merger of the EU and EC Treaties in a single text, which in turn marked a fundamental step towards the simplification of the Treaties demanded by public opinion. It comprised three parts. The first part laid down the EU's constitutional and institutional architecture. The second dealt with the

Union's policies and action. The third would consist of general clauses, covering such issues as territorial application, language regime and rules for ratification and revision, as well as the provisions normally found in constitutional acts to ensure continuity with past treaties. In addition, it stated the inclusion of the Charter of Fundamental Rights. This skeleton publication gave a boost to the convention's proceedings and structured the subsequent discussions. The document further proved an important turning point for the Convention. It helped clarify one of the major uncertainties surrounding the Convention by making clear that its goal was to draft a Constitutional Treaty. The final text, submitted to Silvio Berlusconi in Rome on 18 July 2003, was entitled a Draft Treaty Establishing a Constitution for Europe. Giscard's skeleton clearly mapped out the route the convention had to follow to make sure that the end product would contain the necessary changes and improvements to meet the demand of Treaty revision and to develop a better functioning EU within the dimensions of democracy, subsidiarity, transparency and better power-sharing between the supragovernmental and intergovernmental levels. Some of these were clarified by the efforts of the working groups which added flesh to the skeleton's bones, and with its work managed to steer the process in a developing direction. Giscard and the Praesidium were the steering group of the convention, mapping out the path for the members to follow to be able to achieve and complete the Laeken mandate.

Eleven working-groups were set up to put flesh to Giscard's. For the Convention to stay true to the goal of producing a Constitutional Treaty the definition of the Union's values and objectives were important. Vitorino's groups on the Charter of Fundamental Rights decided that the Charter should be incorporated in the Constitutional Treaty and that the Union should be able to accede to the ECHR, while leaving the modalities unclear in both cases. Vitorino stressed that the group's decisions would give no new competences to the Union, that there would be no change of substance to the Charter, and even if the Charter were legally binding, the group said jurisdiction in action relating to it would lie principally in the courts of the Member States. The group gave the Council of Ministers unanimously decision rights on the separate issues of the EU acceding to the ECHR, but gave powerful backing by stating that accession would highlight the moral and ethical commitments of the EU and give citizens the same degree of protection of fundamental rights at EU level as they enjoyed in their own countries. The working-group on competences, led by Lamassoure, pinpointed the competences shared between the Union and Member States as the biggest difficulty and called for ground rules in this gray area that would confirm with the principle of subsidiarity and proportionality. The Lamassoure group categorized the competences into two broad groups:

the powers of the Union and powers shared with Member States. This division of competences simplified the subject and helped the plenary to picture the idea of a specific catalogue of competences. The blueprint from Giscard set the standard for discussion on the subject of competences, while the working group led by Lamassoure clearly defined them and presented an understandable proposal to the plenary of the Convention. Although the proposal on competences faced many disagreements, the text managed to present new perspectives on the matter, and opened up for a new agenda on how to solve these issues. Subsidiarity was closely bound up with the competences. The group on subsidiarity, chaired by Inigo Mendez de Vigo, managed successfully to bring together the interests of the Convention's federalists and its national parliamentarians. With its proposal of an early warning system, allowing national parliaments to join in the monitoring of compliance, the subsidiarity group represented a useful step forward. The working group on simplification was chaired by Giuliano Amato, who believed that simplification was vital for democracy and faith in the EU institutions. His working group came up with proposals that simplified both legislative procedures and instruments. This work on simplification significantly fleshed out the constitutional skeleton, and in the plenary debate Alain Lamassoure said Amato had earned the stripes of a founding father of Europe. Not only for the progress of the conventional work was this has an important step forwarded, but also as a symbolic status. This conventional progress made the representatives believe that an agreement on a common draft document was possible. On procedures his group produced two profoundly important recommendations on co-decision. Co-decision was legislation by which the Council of Ministers and the European Parliament were equals, and the group proposed that this should become the general rule of the adoption of legislative acts. Qualified Majority Voting in the Council and co-decision should automatically go hand in hand. This recommendation transformed the debate within the convention and was a tremendous step forward in the constitutional process. It took the debate from the technical to the political platform, and drew the plenary into discussion over whether the EU should retain unanimity at all. Also the legal instruments were simplified, as they were cut from 15 to six and given more understandable names during the process. The group was especially innovative in the areas of finances and taxes. Concerning the EU budget Amato's group urged a streamlining of the annual EU budget process, so that setting expenditure would be a similar procedure to co-decision between the Parliament and the Council. The Commission would submit a preliminary draft budget to the Parliament and the Council, like the co-decision procedure, and decided in the Council by a qualified majority, while the Parliament would have the last word.

The six working groups on the constitutional aspects of the European Union, even though some of them were more successful than other, helped to create new and innovative discussions, and their contributions were important for the work of creating the final document (Norman, 2003).

Influential Contributions in the European Convention

Both Germany and France, in particular, upgraded their input to the convention. The two foreign ministers of Germany and France submitted joint contributions to the convention on European Security and Defense Policy and on Economic Governance, which shared the ambitions for greater integration. They opted for all questions related to the security of the Union, including the eventual framing of a common defense policy, to be up to the European Council to decide. To face the global threats they suggested that the EU had to develop a comprehensive security involvement on national, regional and local level. They proposed to introduce a passage on Solidarity and Common Security in the new version of the Treaty to identify every type of risk, including in particular that of terrorism. The objective was to achieve greater flexibility, particularly in the decision-making processes. In order to develop the ESDP and to achieve a Europe totally capable of acting, they suggested strengthening the military capabilities of the Union. This meant to improve the allocation of resources and stepping up the equipment effort of armed forces. To be able to strengthen the armed forces it was seen necessary to improve the coordination of cooperation projects and to strengthen technological and industrial base (Joint Franco-German proposal for the European Convention in the field of the European Security and Defense Policy, Prague 21.11.2002 – www.ambafrance-uk-org/joint-Franco-German-proposals-for).

Concerning the European Economic Governance, France and Germany contributed with suggestions for a framework balancing the share of competences in the area. They saw the necessity for the competences within the euro-areas to lie within the Community and to be exercised by the ECB. Further, they wanted the budget competence to lie within the Member States. The Commission would have to executive power in the area, but was to share with the Council a role of multilateral surveillance of the economic policies. To find a way to closer coordination of economic policies in the EU the coordination system should give an appropriate framework respecting the share of competences and efficient procedures for the euro-area to ensure quick, credible and appropriate decisions. Further, there was to be recognition of special interests for the MS belonging to the euro-area for a closer cooperation. Based on the reports of the working-group on the matter, and on the plenary debates, the

Franco-German proposal gave three main subjects for better economic governance in the Union. The first was the recognition of a euro-group in a protocol, which had the ability to hold informal dialogues with the ECB. The second was the election of a president for the euro-group to improve its visibility. The third opened for discussions among the Euro Member States to discuss in the Council on subjects like stability programs. They wanted to improve the coordination of economic policies by involving more involvement by the national parliaments, but to keep the responsibilities of the Commission unchanged. They further opted for the use of QMV on taxation issues directly related to the internal market (French-German contribution on Economic Governance, Brussels 2002 – www.european-convention.eu.int/pdf/reg/en/02/cv00/cv00470.en02.pdf).

The Franco-German proposals on institutions of the European Union had a huge impact on the future debates over institutional questions and on the final draft. They proposed for a long-term President of the European Council and an elected Commission President. The two countries also proposed a double-hatted foreign minister for the Union, more QMV and co-decision, and a restructuring of the formations of the Council of Ministers to cope with increased executive responsibilities in the fields of justice and home affairs and the common foreign and security policy. Further they proposed a full-time President for the European Council of the enlarged Union who would be elected by Council members using QMV, and office for five years or for two and a half, renewable once. The European Council, in cooperation with the European Commission, would determine the basic political and strategic guidelines for CFSP and defense policy, and would be the institution to appoint the foreign minister by QMV and by approval of the Commission President. The two countries also stated that the Constitutional Treaty had to strengthen the role of the Commission as a motor of the European construction. The joint text proposed the nomination of the Commission and its President after the European elections, which would be followed by the election of the President by a qualified majority of MEPs and confirmation by the European Council also by qualified majority. The President would then appoint the college of commissioners, taking account of geographical and demographic factors and would be able to make a distinction between commissioners with sectored, functional or special responsibilities on the basis of equal rotation. After approval by the European Parliament, the European Council would appoint the commissioners by QMV. The Commission President would provide political leadership in the Commission, which as an institution would be accountable to both the European parliament and the European Council. The European Parliament's power of co-decision would be extended automatically in line with each extension of QMV in the Council,

and the text also acknowledged the national parliaments, where they were given a part in future conventions to revise the Constitutional Treaty. The two countries proclaimed their goal was greater clarity, legitimacy, and efficiency through balanced strengthening of the Union's institutional triangle and its external representation. The new suggestions to the EU institutional triangle and their technicalities, even though objected to by the smaller Member States and many of the other conventionnels, the Franco-German proposals were to be the template for all future discussions on the institutional settlement (The Institutional Architecture of the European Union – A new Franco-German Way? - www.notre-europe.eu/media/etud23-en.pdf?pdf=ok).

This federal tone was set even stronger by the contribution from the Commission, with the extension of the Commission's right of initiative to the whole legislative field and, military matters apart, the areas where policies were coordinated, including the economy, employment, and police cooperation and – eventually – foreign and security policy. The co-decision procedure should be applied without exception to the adoption of all European laws, and QMV should be made the general rule on the Council, and determined by a simple dual majority of Member States representing a majority of the total EU population. In return for its increased role, the Commission would be more clearly accountable to both the Parliament and the European Council, where the Commission President would be elected by the Parliament by at least two-thirds of the votes in a secret ballot, and the European Council, after confirming the Parliament's choice, would designate the other Commission members by common accord. The Commission as a whole would need the approval of the Parliament, and the Parliament would elect the Commission President confirmed by the European Council. Although the Commission had lost much influence in the convention, and instead the Praesidium's Secretariat had established an unchallenged monopoly of initiative, its suggestions for the relationship between the institutions followed the discussions on the subject to the end of the convention (Norman, 2003).

The working groups drew mixed reviews during and immediately after the convention's study phase. Those that functioned well produced consensus on issues that had eluded successive in intergovernmental conferences, including agreement on a single personality for the Union, which was an important preliminary to completing the Praesidium's skeleton and elimination of the three pillar system. They reached consensus on creating the early warning system for national parliaments to police subsidiarity. Further they drew up an understanding of implementing the Charter of Fundamental Rights. They also managed to reduce and reform the bewildering array of legal instruments currently used by the Union to legislate, and to

extend the Community Method and QMV to important areas of internal security, including asylum and immigration. Although there were important areas of discord, notably in foreign affairs, defence policy, taxation and economic policy and social policy, they yielded partial agreement or generated momentum when the convention turned to drafting the articles of the Constitutional Treaty. Taking up the heritage from the listening phase, also the working groups helped bring the convention closer together. The groups amid to take pressures of work and the distinction between full Convention members and alternates disappeared, because they allowed a determined participant to influence the consensus, although they were never used for the convention's biggest challenges, like resolving the institutional questions (Norman, 2003).

The Legacy of Committees and James Madison in the American Convention

The establishment of the committees within the American Convention was important for the conventional process. The convention established committees as labour groups to shorten the time frame and to elaborate on issues the delegates disagreed most on. The committee of postponed matters, led by Roger Sherman, again pushed the conventional work forward by proposing a solution on the election of the executive branch and made the delegates move on with their drafting work. When they drafted the Constitution they only made minor changes to the proposal from the committee of postponed matters on the executive branch. As a big progress step towards a final draft the committee of style presented simplifications in terms of fewer articles and an effort to bring the states under the constitutional law of one state. The contributed documents and proposal from strong personalities, smaller group gathering, and the conventional working groups did both push the conventional process in the right direction on finishing its work with a common draft constitutional document, and the content of these documents and proposals had deep impact on the discussions and the wording of the final text. His proposals corrected and enlarged the Confederation into a completely different government (Bowen, 1966).

James Madison came to Philadelphia determined to steer the convention away from its limited mandate of reforming the Articles of Confederation and towards designing an entirely new constitution. His fifteen resolves would steer the future debates and he proposed the first constitutional contribution through the Virginia Plan. This Plan provided a governmental and structural blueprint for the new Constitution, with its most controversial proposal being the new idea of a legislature with two Houses, both with proportional representation. This

blueprint, for the rest of the convention's work, became the basis for the American constitutional procedures.

Without the notes of James Madison it would have been almost impossible to retell the actual work-process within the American Convention. His notes showed how the conventional work progressed on a day to day basis. From the convention started its work in May and until it ended its final draft in September 1787. From Madison's day to day notes it is stated when the different delegates rose to address their contributions on conventional discussions. James Madison put down a standard with his Virginia Plan, but also the establishment of the committees within the American Convention was important for the conventional process. James Wilson, representing Pennsylvania, proposed that the new America should be distinct states independent from each other, but connected under the same sovereign. He believed in a strong government and in sovereignty of the people, and Wilson made this point of view on this particular matter be a part of the final draft. Further, Charles Pickney, the state delegate from South Carolina, suggested that the members of the first branch, the House of Representatives, should be elected by the people. He argued that for the states to adopt a proposal on a federal draft, the first branch should be the one to appoint them. His suggestion was modified by the possibility for the people to nominate people from their districts, who in turn would be elected by the states. His contribution had a strong impact on the final draft. Roger Sherman wrote history with his proposal on votes in the two branches. His proposal was known as the Sherman compromise, where he opted for proportion of the votes in the first branch, the House of Representatives, and for the votes in the second branch, the Senate, each state should have one vote each.

The convention established committees as working-groups to shorten the time frame and to elaborate on issues where the delegates disagreed in the content and layout. The committee on postponed mattes, led by Roger Sherman, pushed the conventional work forward by proposing a solution on the election of the executive branch, the President, and made the delegates move on with their drafting work. When they drafted the document they only made minor changes to the proposal from the committee on postponed matters on the executive branch. As a big step progress step towards a final draft the committee of style presented simplifications in terms of fewer articles and an effort to bring the states under the constitutional law of states. The contributed documents and proposals from strong personalities, smaller group gatherings, and the conventional working-groups did progress the conventional processes on finishing its work on a common draft constitutional document, and

the content of these documents and proposals had strong impact on the discussions and the wording of the final text.

 (Madison Debates – http://avalon.law.yale.edu/subject_menus/debcont.asp).

Using the definition of Ivancevich, Konopaske and Matteson leadership is often defined as the process of influencing other to facilitate the attainment of organizationally relevant goals. Giscard was the president of the European Convention, and through this he had a formal leading role. His contribution of a starting blueprint laid out the guidelines for the discussions of the conventional work. This blueprint steered the work-process in the direction of a single constitutional draft. But the definition states that it is not crucial to be a formal leader to exert leadership behaviour. For both conventions this can be seen in the importance of the presented documents of the working-groups/committees, the Franco-German proposals, the contributions of the American delegates and from the European Commission. All of these documents had impact on the work-processes and on the final draft documents. Further, Keith Grint argues that the focus within the theoretical framework of leadership often focuses on the personalization of management, where strong personalities will have impact on the outcome of the stated goal. This can be seen both in the European and American context. In addition, leadership can in this context be defined as an instrument of goal achievement, where any member of the conventions can exhibit some amount of leadership. In the extension of this, Ivancevich, Konopaske and Matteson aim to explain the political behaviour and perceptions in organizations, where the ability of interpersonal influence and networking ability. The personal-political tactics and friendship is seen in many of the contributions to the conventional work, where the strongest ones have the deepest impact on the work-processes and the final drafts.

Similarities and Differences between the Influential Contributions

Both conventions started their work with the presentation of a blueprint presented by two strong contributors to the conventional work-processes, Giscard and Madison. Although their content differs, their contributed blueprints would steer the work-processes throughout the life of the conventions.

For the European convention it was the contributions of France and Germany, the Commission and the legacy of the working-groups, which had the strongest influence on the conventional work-process. In the American convention it was the mere the contributions of James Madison through his Virginia Plan, and some contributions from other delegates, which

were implemented in the work-process of the convention. The committees in this context served more as text drafters.

Conclusion

In this chapter the aim was to show the importance of political leadership within organizations. Further, to emphasize the importance of these oral and text presentations as strong contributions to push the conventional work-processes forward and in the direction of a final end document.

7. Conclusion

"Der Europäische Konvent hat Interesse und Enthusiasmus entfacht. Tatsächlich stehen wir einem konstitutionellen Experiment gegenüber, dessen Benennung Erinnerungen an den Konvent von Philadelphia im Jahre 1787 wachruft, im Rahmen dessen die 50 Gründungsväter die Verfassung der Vereinigten Staaten von Amerika niederschrieben. „Die vergleich gilt doch nur sehr begrenzt"(Kleger, 2004:71).

The European Convention is to be understood as a constitutional experiment, which shares similarities with the Philadelphia Convention, but the comparison can only be seen in restricted ways. From the American to the European Convention there have been enormous development on the state-level, and the American experiment is not that easy transferable to the current European Union. Europe faces a non-pyramidal constitutionalism, where the political cultures are very different. But although the European Union Convention was not a revolutionary arrangement, it can still be seen as just a big a historical event as the Philadelphia Convention (Kleger, 2004:71, my translation).

The aim of the thesis was to look at the work-processes of the conventions in a comparative framework, with the independent variables of pre-historical events, organizational structure, and political leadership affecting these processes. It is shown in the discussions and elaborations above that there are similarities within these processes, although the American continent was an agricultural economy with its original thirteen colonies, and the European Union was mainly postindustrial markets. Further, many technological innovations, interspersed with bloody wars, stand between them, and also accompanied by profound transformations in the nature of the relationship between citizens, as well as in democratic theory. In the broad context of comparison between the conventions a comparative analysis of the two elopes numerous of differences between them. The European polity is much more complex than the American was, yet, in spite of numerous differences; one can find

similarities in the conventional processes. They can be found in the events that led to the establishments of the conventions, in its organizational structure through the working procedures and the debates and discussions, and through how politicians and representatives within the conventions contributed to the conventional processes.

The European Convention had been asked to respond to three issues: how to bring citizens closer to the European design and European institutions; how to organize politics and the European political area in an enlarged Union; and how to develop the Union into a stabilizing factor and a model in the new world order. The conventionnels answered with a better division of Union and Member State competences; recommended a merger of the Treaties and giving legal personality to the Union; simplified the Union's instruments of action; increased the Union's democracy, transparency and efficiency by involving national parliaments in its affairs; simplifying decision-making processes; making the working of EU institutions more transparent and comprehensible; and improved the structure and strengthen each of the Union's three institutions, taking particular account of enlargement. It was a convention with an end product of trade-offs between frequently contradictory demands, between federalists and non-federalists, between more and less populated Member States, between richer and poorer, and between the different institutions. In the American case, the delegates had taken the declaration guidelines from Annapolis and stated out a completely new government for the American population. The delegates had compromised on new institutions and power-sharing between them, on an American President, on sovereignty pooled to the federal level concerning areas such as taxation on trade and external affairs. The American delegates managed through the 5 months of the conventional work, to create a Constitution which is known to be the oldest Constitution in history.

Three Variables

In my analysis of the pre-historical events, the organizational structure, and the representative's contributions to the conventions I have found several aspects on how they influence and develop the work-processes. Further, I have found both similarities and differences between the conventions within these aspects. I have analysed these aspects with the focus on how the pre-historical events implemented the guidelines for the work of the convention and set the agenda for the conventional work. How the organizational structure of the conventions influenced establishments of formal and informal groupings and internal debates, which steered the work of the conventions towards reaching their end goal. How

strong contributions from members of the conventions had strong impact on the discussions and on the final draft documents. My arguments in accordance with these independent variables are to show how they, in different stages of the life of the conventions, had strong impact of the progress and development of the conventional work-processes.

The Conclusive Points

My analysis shows a gradually development towards the establishments of the conventions through the pre-historical events. It shows that prior to both conventions the continents were facing internal and external issues and, to some extent, crisis. In order to develop a stronger European Union and American nation, the pre-historical events ended out in declarations stating new thinking and revision on the already existing procedures. They both faced the need of better structured sovereignty on the central level and a better division of power between this level and the member states. Further, external crisis forged a better structured and common defence policy. Although the content of the events differed, the similarities of the historical events ending up in an establishment of the conventions are present. In this sense I have shown how the growing ambitions within the European Union developed from a coal and steel cooperation between Germany and France and into a Union of vanquished internal borders between the Members States and an inner core of strong economic cooperation. The speed of enlargement stated the development within the EU, but at the same time stated the struggle to keep up with the expansion through developing a stronger political Union. These ambitions made the Union become ever more important in the lives of its citizens. In the context of stronger integration through a common fiscal policy and the single market it was a need for adjustments on rules, legislation and habits at the supragovernmental and intergovernmental levels. When the Treaty processes and the Intergovernmental Conferences failed to develop and strengthen the Union within these areas, European politicians decided to establish a convention to convene on the created Declaration decided upon at Laeken in 2001. These guidelines were the point of departure and agenda for the work-processes of the convention.

For the American context the new-born American states faced crisis within finance, domestic control of commerce, and in the area of defense policy. To keep the development of the new nation-culture politicians saw the need to overcome the internal and external crisis. When the Articles of Confederation failed as a tool to develop this growing culture further, politicians met in Annapolis and stated out that delegates were to meet in Philadelphia in 1787. The Articles of Confederation was failing as the nation's supreme law and change was needed to

overcome the already existing problems and crisis. In the theoretical framework of path-dependence I argue that these particular pre-historical events set the agenda for the work-processes of the conventions, and steered it work towards a single, constitutional draft document. The two conventions convened 230 years apart, but in the context of pre-historical events leading up to the establishment of the conventions, it is possible to say that these events set the agenda for the work of the conventions. They differ in content, but in both cases the declarations set out at the pre-meeting before they started working, both spelled out a revision of the already existing rules and procedures.

The second variable discusses the impact of organizational structure on the work-processes of the conventions. In the composition of organizational representatives and representation the conventions differed on all aspects. The European convention had representatives from both the supragovernmental level and intergovernmental level, including members of the opposition parties and women. The American delegates consisted only of young and educated men from the different states. Further, the European convention tried to mirror their environment by including Non-governmental Organizations (NGO) and to establish a Youth Convention for discussions on the same tasks as the convention proper. They also established an internet forum for the publications of the conventional work. In the American convention all sessions were held secret, because the delegates fared that the influence of the common man in the nation states would collapse the conventional work of a strong, revised document for the new American government.

Both conventions established working-groups and committees on the matters of the different tasks they had to deal with. As shown in the discussions above, these groups had strong impact on the work of the conventions and their legacy was emphasized contributions for the conventions to reach their outlined declarations. In volume, the working-groups of the European conventions was much bigger than the committees of the American convention, but they served for the same reasons; to put flesh to the already established blueprints of the conventional guidelines, and to progress the work of the conventions to reach their end goal. The European convention had a skeleton drafted by Giscard, which served as a steering text throughout the conventional work. The same can be said about the Virginia Plan drafted by James Madison. Also, both conventions discussed and elaborated the most on the questions around the institutions and the power-sharing between them and the states. Although the content differed, the conventions had to compromise the outcome of these discussions to finish their work and be able to present a final document.

For the first time in history a convention was introduced to discuss conventional questions. For both the European and the American conventionnels the organizational structure of the representatives and the working-groups and committees, affected and had strong impact on the working-processes of the conventions. From this discussion it can be claimed that the legacy of the working-groups in the European convention, and the committees in the American convention, not only pushed the conventional work-processes forward, but also spanned of some of the strongest contributions to the final constitutional documents.

My third variable elaborates on the effectiveness of the strong contributions of some of the conventionnels and their impact on the work-processes. Both conventions started their work with the presentation of a blueprint presented by two strong contributors to the conventional work-processes, Giscard and Madison. Although their content differs, their contributed blueprints would steer the work-processes throughout the life of the conventions.

For the European convention it was the contributions of France and Germany, the Commission and the legacy of the working-groups, which had the strongest influence on the conventional work-process. In the American convention it was the mere the contributions of James Madison through his Virginia Plan, and some contributions from other delegates, which were implemented in the work-process of the convention. The committees in this context served more as text drafters. The aim was to show the importance of political leadership within organizations. Further, to emphasize the importance of these oral and text presentations as strong contributions to push the conventional work-processes forward and in the direction of a final end document.

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