

A Critical Review of “Explaining the Treaty of Amsterdam: Interests, Influence, Institutions” by Andrew Moravcsik and Kalypso Nicolaidis

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Synopsis

In June of 1997, the Treaty of Amsterdam was signed. The predominant opinion at the time deemed the Treaty to be disappointing and that the reforms implemented to be minor. Andrew Moravcsik and Kalypso Nicolaidis challenge this view and argue that the Treaty “constitutes a sophisticated response to the current needs of the EU and the expectations of its citizens” (pg. 60). They argue that the Amsterdam negotiations proceeded largely in accordance with the framework posited by Liberal Intergovernmentalism (LI). First, nation-state preference formation occurred within the context of issue-specific interdependence and via negotiations between national governments and domestic pressure groups. Second, inter-state bargaining proceeded within the framework of asymmetrical interdependence, where the intensity of state preferences was decisive for the resulting distributional outcomes. Third, institutional choice arose out of a need for states to make credible commitments. The authors assess these three processes in turn and evaluate the degree to which the Treaty negotiations conform with the predictions of LI as opposed to alternative theoretical frameworks, finding that the process largely aligns with the predictions of LI. This review provides an overview of Moravcsik and Nicolaidis’ article and concludes with a brief critique.

Some Brief Background on the Treaty of Amsterdam

What did the Treaty of Amsterdam do? The following is a list of its noteworthy provisions:

- 1) The Co-Decision Procedure between the Council and the Parliament was extended to 23 new areas, increasing the influence of the Parliament (pg. 71).
- 2) A new area of police and judicial cooperation concerning criminal matters was established (pg. 63).
- 3) Qualified Majority Voting (QMV) was expanded to 14 new areas, most being relatively uncontroversial (public health, countering fraud, customs cooperation, etc.) (pg. 77).
- 4) The jurisdiction of the European Court of Justice (ECJ) was expanded to include the protection of the individual rights of foreign nationals (pg. 79)
- 5) A provision was inserted in the Treaties providing for the possibility of national vetoes (akin to the Luxembourg Compromise that ended the empty chair crisis) where vital national interests are compromised, particularly vis-à-vis the Common Foreign and Security Policy (CFSP) (pg. 80).
- 6) A High Representative for the CFSP was established (pg. 64).
- 7) The Schengen Agreement was incorporated within EU law (not mentioned in article).

I. Nation State Preference Formation

In the first section of their paper, Moravcsik and Nicolaidis assess the degree to which nation-state preference formation aligns with LI as opposed to two alternative perspectives. These alternatives include: (1) ‘Garbage can’ theories of decision-making, whereby states’ preferences are only partially formed going into negotiations and the negotiating process itself shapes preferences; (2) Geopolitical/ideational theories, predicting that governments define their preferences according to either geopolitical interests or federalist ideologies (pg. 61). The key prediction of Garbage can theories would be that national interests would change through the negotiation process; the prediction of the geopolitical/ideational theories would be that preferences would vary by state along a federalist-antifederalist dimension but not across specific issue areas. Both theories are not supported. In general:

- a) *“Positions of major governments on major issues [were] consistent with the most widely-held theories of issue-specific incentives for co-operation”* (pg. 62). For example,

governments with strong control over their borders (Britain) opposed greater supranational involvement in immigration policies; the socialist government of France supported greater EU provisions on employment; states with distinctive foreign policy preferences (Britain, Greece) opposed CFSP cooperation; Mediterranean states sought expanded cooperation on tourism (pgs. 63-64). In other words, state preferences varied across issue areas, unlike what geopolitical/ideational approaches would predict.

- b) *“Rational, issue-specific preferences [were] what national and supranational officials assumed at the time and reported subsequently”* (pg. 65). Negotiations and fora were interpreted by government representatives as means for information diffusion to reduce asymmetric information problems, not as locations for preference formation (ibid).
- c) *“National positions were relatively stable during (and prior to) the negotiations”* (pg. 67). Indeed, an analysis of bi-monthly reports on the positions of national governments issued between April 1996 and May 1997 reveals that only six out of 120 (five percent) include a policy reversal (pg. 67). This contradicts the predictions of “garbage can” bargaining theories which posit that preferences are partially shaped by the negotiations themselves.
- d) *“Exceptional cases of salient policy reversal during the negotiations – leaving aside overt compromises – were connected to salient, predictable and structural changes in domestic politics”* (pgs. 67-68). In Britain, for example, where the Tory government was replaced by a Labour government, a relaxation of the prior position against social policy and employment cooperation can be seen (pg. 68).

II. Inter-State Bargaining

At the inter-state bargaining stage, the intensity of nation-state preferences – not supranational entrepreneurship – is interpreted by Moravcsik and Nicolaidis to be the critical factor in shaping the resulting outcomes (pg. 69).

With respect to the role of supranational entrepreneurs, the authors posit that they can only play a critical role given the presence of asymmetric information – yet “never was an IGC so carefully, comprehensively, and collectively prepared and publicized” as the negotiations for the Treaty of Amsterdam (ibid). Indeed, “no government backed the Commission’s proposal for across-the-board QMV,” and “by all reports, the Parliament, like the Commission, acquitted itself in a constructive and professional manner” (pgs. 70-71). Finally, the decision to call the IGC was made by the states, highlighting their continuing agenda-setting power (pg. 71). In the end, “nearly all issues that received serious attention were matters of enduring concern among a substantial number of Member States” (pg. 72).

The presence of asymmetric interdependence can be perceived by what was agreed to in the negotiations, and how quickly agreement was reached. “Where there was ‘spontaneous’ unanimity, as in stronger provisions for fighting international crime, spelling out provisions on subsidiarity or some of the human rights clauses, agreement was swiftly reached [...] Where there was outright conflict, as in defense policy, little was achieved” (pg. 74). This is because “agreements were constrained by the positions of recalcitrant governments” (pg. 73). For example, Helmut Kohl was strongly opposed to a significant expansion of QMV (he was facing a national election and did not want to jeopardize the transition to EMU), and his position proved determinative (pg. 75). On less important issues that mattered greatly to a single state but not much to others, small concessions were made (pg. 74).

III. Institutional Choice

Although the Treaty of Amsterdam was largely framed as an opportunity at EU institutional reform, little institutional change was included in the final document (pg. 76). Why is this? Here, Moravcsik and

Nicolaidis seek to square the evidence with three possible approaches: (1) a credible commitment approach (i.e. their approach); (2) an ideological approach (“the more governments accept the vision of a federalist Europe, the more they support pooling and delegation across issue-areas”); (3) a technocratic, or neofunctionalist, approach, where “delegation may be required for technically complex issues in order to generate and manipulate specialized expertise efficiently” (pg. 76).

The authors argue that the credible-commitment approach best explains institutional choice (or lack thereof). First, they argue that no country took an unambiguously federalist stance with the possible exception of Italy, which supported the greatest extension of QMV (pg. 77). Support for pooling/delegating competences to the supranational level depended on whether the issue was uncontroversial or not. In the former case, pooling of sovereignty (i.e. extension of QMV to cover the area) or delegation of sovereignty (i.e. expanding the jurisdiction of the ECJ) occurred; in the latter case, it did not (ibid). Second, and in a brief rebuke of historical institutionalist arguments, the authors argue that “it is striking that in deciding how to delegate or pool sovereignty, governments seemed relatively unconstrained by the pre-existing institutional structure of the EU” (pg. 79). In fact, “flexibility clauses” were inserted into the Treaty provision to prevent institutional ossification (ibid). Finally, and against the Commission’s wishes for institutional simplification, the Treaty of Amsterdam complexified the EU’s institutional structure “as governments tailor-made institutions in order to lock in commitments while limiting the scope of delegation in issue-specific ways” (pg. 79).

The only area where ideology seemed to have played a role was in the drive to increase the power of the Parliament. This was due, in part, to an attempt to address calls to redress a perceived “democratic deficit” in the EU, as well as by states perceiving a “connection [between the Parliament and] their own democratic institutions” (pg. 81). Yet Moravcsik and Nicolaidis argue that this aligns with the predictions of the credible commitment approach, which posits that in areas where the consequences of delegation are unclear, ideology plays a more important and independent causal role (ibid).

A Brief Critique

I found the article to be very persuasive in making the case that the Treaty of Amsterdam negotiations largely conform with the expectations of LI. I nevertheless have three relatively minor critiques.

First, I found the authors’ brief rebuke of historical institutionalist expectations (particularly in Section III) to be unconvincing. The argument that institutions did not substantially constrain institutional choice in the Treaty of Amsterdam negotiations only partially casts doubt on historical institutionalist predictions; a more decisive test of historical institutionalist theory would also show nation-state willingness to roll back pre-existing institutional choices (i.e. retrenchment). The crucial argument of historical institutionalists is that institutions, once in place, are difficult to change and particularly difficult to roll back. While it may be argued that retrenchment was not in the interests of any particular state, the point nonetheless stands that the Treaty of Amsterdam negotiations (which, if anything, created greater institutional density and slightly expanded the number of competences pooled/delegated at the EU level) do not provide evidence that contradicts the expectations of historical institutionalism.

I would also challenge Moravcsik and Nicolaidis’ notion that the Treaty “constitutes a sophisticated response to the current needs of the EU and the expectations of its citizens” (pg. 60). I would modify this statement to: “the Treaty constitutes a sophisticated response to the current needs of EU member states and the expectations of important domestic pressure groups within those states.” A LI approach is ill-suited for conceptualizing “EU” needs, since needs are disaggregated and treated as relevant only insofar as they shape the substance and intensity of state preferences. The authors also fail to address how “citizens” enter the picture – does this suggest a relaxation of LI’s treatment of some pressure

groups (particularly domestic producers) as more influential than others? Or are “citizens” just a synonym for domestic interest groups?

More importantly, if the Treaty conforms to the “current needs of the EU and the expectations of its citizens,” why was everyone let down or otherwise surprised by the outcome of the negotiations? In other words, if the preferences of state governments were stable and public, if the Treaty negotiations were transparent, and if the overall outcome was as predictable as Moravcsik and Nicolaidis say it was, why have “most assessments [...] been highly critical of the results?” (pg. 60). The only reason would seem to be if almost everyone is, as I’ve mentioned previously, a closeted Eurofederalist (indeed, the authors posit that the widespread critiques arose “because of [the results’] insignificance when held up against the benchmark of federalist ambitions” (pg. 60)). But is it not curious that the world seems full of Eurofederalist ideologues who, in all but a fairly restrictive set of conditions, seem powerless to shape or otherwise overcome states’ material self-interests?