INTRODUCTION¹

The purpose of this chapter is to give an account of the Intergovernmental Conference (IGC) that finalised the negotiation of the Draft Treaty Establishing a Constitution for Europe (Constitutional Treaty). It started on 4 October 2003 during the Italian Presidency and reached an agreement on 18 June 2004 during the Irish Presidency.

The IGC 2003-04 was unique in the sense that it based its work on a complete legal text, the one proposed by the European Convention. It was also the first IGC with 25 governments taking part, and three more observing. The June 2003 European Council saw the draft from the Convention as a “good basis” for the IGC and declared that the IGC should be completed before the June 2004 elections for the European Parliament (Crum, 2007). This latter goal was not quite achieved.

ON TREATY REFORMS AND IGCs

Why was it decided that the EU needed a new treaty so soon after the Treaty of Nice? After all, the EU leaders declared in Nice that the Union was now ready for the next enlargement. At the same time, however, they were not completely satisfied with the Treaty of Nice, because they decided that a new IGC should be convened in 2004. In the meantime the Union’s future should be discussed (Laursen, 2006b).

Looking at treaty reforms from the Single European Act (SEA) in the mid-1980s, to the Maastricht, Amsterdam and Nice Treaties in the 1990s to the Constitutional Treaty, there are certain trends. Over time the use of qualified majority voting (QMV) has been increased, usually linked with successive enlargements. Over time the policy scope has increased, although this was not really part of Nice and only to a limited extent part of the Constitutional Treaty. Over time the European Parliament has gradually become more involved in decision-making through various procedural

¹ This chapter partly relies on Laursen, 2004 and 2006b.
changes, including the cooperation procedure in the SEA and co-decision in the Maastricht Treaty. The application of co-decision was then extended by the Amsterdam and Nice Treaties and this trend continued with the Constitutional Treaty.

The EU has gone farther than any other regional integration scheme in pooling and delegating sovereignty to ‘supranational’ institutions. Why has the EU gone so far? Scholars disagree on how far the EU has gone as well as the reasons for these advances in integration. On one hand we have intergovernmentalists, who argue that the Member States are still very much in control, and who see the EU as an international regime created to assure the implementation of joint decisions. On the other hand, some scholars such as neo-functionalists, see built-in forces that take the process further and further—through spill-over processes, bargaining exchanges, actor socialisation and learning processes (see especially Lindberg and Scheingold, 1970). In a similar vein historical institutionalists see a certain path dependency where the states are no longer fully in control (Pierson, 1996).

Andrew Moravcsik gave a rationalist intergovernmental explanation with emphasis on economic interests. He called his approach “liberal intergovernmentalism.” He studied national preference formation and interstate bargaining with emphasis on power elements such as threats of exclusion and threats of veto (Moravcsik, 1993). Later he added a third phase, institutional choice, where he explained the pooling and delegation of sovereignty which has taken place in the European Communities, as a way to assure “credible commitments” (Moravcsik, 1998).

Moravcsik’s explanation makes a lot of sense if we study the Treaty of Rome establishing the European Economic Community (EEC) and the SEA outlining the single market programme. The Economic and Monetary Union (EMU) part of the Maastricht Treaty also fits in quite well. These advances in European integration were very much responses to increasing economic interdependence, which created demands for integration from economic interest groups.

But do the other parts of the Maastricht Treaty—the Common Foreign and Security Policy (CFSP) and Justice and Home Affairs (JHA) cooperation—also fit in with Moravcsik’s explanation? Maastricht after all was negotiated after the end of the Cold War and German unification. Geopolitics, not considered very important by Moravcsik, could then also be seen as an important reason for turning the Communities into a political union in the early 1990s (Laursen, 1992).

Rationalist institutionalists have argued that not only governments but also Community institutions can play important roles in treaty reforms (e.g., Beach, 2005; Beach and Mazzucelli, 2007). Also, the role played by the Presidency can be important (e.g., Tallberg, 2006). Rationalist