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Political Economy of the Nice Treaty: Rebalancing the EU Council

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Introduction

When it was established in the 1950's, the European Community was based on a global balance of power among member States. That initial vision of the founding fathers of the European Union has been embodied in the weighted voting system of the EU Council. Since its origin, this voting system has remained largely unchanged, despite several enlargements. The scale of the member States' relative voting weights in the EU-6 of 1957 is about the same as that of the EU-15 of 2000. For several decades, voting rights of the large member States (France, Germany, Italy, and the United-Kingdom) have been 5 times higher than that of Luxembourg, the smallest member. When enlargement occurred, new member States were granted weighted votes according to their relative sizes, without any modification to the existing system or to the relative voting rights of the other members. Only once, was the initial voting system adapted because of enlargement, in 1973. However, even in that case, the same balance of power was essentially maintained. The adaptation of the voting system was nominal in nature. Increasing the nominal voting rights of member States was designed to allow better differentiation among medium-size countries (*e.g.* between Belgium and Ireland) otherwise impossible.

	1958	1973	1981	1986	1995
	UE-6	UE-9	UE-10	UE-12	UE-15
France	4	10	10	10	10
Germany	4	10	10	10	10
Italy	4	10	10	10	10
Belgium	2	5	5	5	5
Netherlands	2	5	5	5	5
Luxembourg	1	2	2	2	2
United-Kingdom		10	10	10	10
Ireland		3	3	3	3
Denmark		3	3	3	3
Greece			5	5	5
Spain				8	8
Portugal				5	5
Sweden					4
Austria					4
Finland					3
Total	17	58	63	76	87
QMT	12	41	45	54	62
QMT (%)	70.6	70.7	71.4	71.1	71.3

Note: "QMT" is the qualified majority threshold.

However, besides the apparent stability of the nominal voting system, EU enlargements have progressively shifted the initial balance of power to the advantage of small member States and to the detriment of the large members. Over time, at each enlargement, the share of the overall votes of the large member States tended to shrink significantly in comparison to the overall votes of smaller members. This is a consequence of the structure of enlargement, which have mostly encompassed small States. The increasing number of small States relative to large States implied a shift in the global power balance. The resulting imbalance between large and small States constitutes a challenge to the democratic character of the EU and to the legitimacy of community decisions. This challenge is reinforced by the prospect of further enlarging the EU to 12 new members, of which most are small States.

Note only the political balance among member States is the issue, but also the overall democratic character of the EU decision system. With the current system, combined with enlargement, decision could be made with less and less population representation. Council decisions should be sufficiently representative of the EU population through the member States' votes. The minimal population represented in the votes has already decreased from 68% to 58% when the EU enlarged from six members to fifteen. Without adjustment of the voting system, enlarging the Union to EU-27 could bring this population representation below 50%. Legitimacy of the EU decision would then be questionable.

QM in % of	UE-6	UE-9	UE-10	UE-12	UE-15	UE-27a	UE-27b
EU population	67.7	70.6	70.1	63.3	58.2	50.2	46.4

Note : These are the *minimal population* required for a qualified majority decision. The UE-27 is calculated on the basis of the current weighted voting system, with a QMT of 70,90 % of the votes (UE-27a) or 70,15% (UE-27b). Sources : European Commission (2000).

Thus, the need to increase the nominal voting rights of large member States has progressively been felt in order to compensate for a growing democratic deficit within the EU Council. With this goal in mind, EU member States reached in Nice an agreement to reform the voting system of the EU Council.

Historical foundation of the weighted voting system in the European Union Council

Historically, when the initial negotiations took place to establish the European Economic Community in the 1950's, the power balance between large and small States was a critical issue. At this occasion, the six founding member States agreed on a set of guiding principles to define the Council decision voting system.¹

A first principle was to reject any objective criteria as the basis for establishing voting rights. Such objective criteria, like relative economic weight, population or contribution to the Community budget, were considered inadequate not just for technical reasons, but mostly for far reaching political considerations. Recognizing the political nature of the European Community project, it was considered justified to search for a functional political equilibrium rather than to depend on contingent objective circumstances.

A second principle was based on a pragmatic approach. The empirical success of the weighted voting system of the existing Council of the Coal and Steel European Community compared very positively to the poor practical functioning of the One State/One vote rule (such as in the United Nations Organization). The very significant differences in weight between member States could not be artificially nullified by the Community institutions without implying serious dysfunctional risks. It then followed that the Community decision framework had to be based on a weighted voting system.

On the basis of these global orientations, specifying the exact weights of the respective votes and the decision-making rules happened to be a difficult process with intense negotiations between the six founding members. The negotiators' wish to equitably allocate power among them created a difficulty that was not arithmetic but political in nature. The main question was not to decide how much voting rights each member State would be endowed with but to define which groups of countries should be able to block Community decisions. From that fundamental political decision would then be derived the actual arithmetic of the respective voting rights and the qualified majority threshold.

Founding countries agreed that a blocking minority would be attained by the coalition of a large member (France, Germany, or Italy) with a small one (Belgium or the Netherlands), while the coalition of a large member with only a very small one (Luxembourg) was considered insufficient to block a decision. From that agreement could be identified the respective voting rights and the majority threshold. However, that agreement did not end the difficulty that had emerged between large and small members,

¹ For a detailed historical analysis of treaty negotiations, see De l'Écotais (1996a, 1996b, 1996c).

the latter were concerned that their interests would not be sufficiently taken into account in future Community decisions. A compromise was finally found, on the basis of that agreement, by specifying the role of the European Commission: the Council would take a decision in that way only in the case of a proposal from the Commission. For small member States, this Commission power was a safeguard that the Community's interest would be protected even when they would be out-voted in the Council. Combined with that compromise, the initial agreement became a defining basis for the Community institutional system.

The EU Council voting system in the Nice Treaty

The Nice Treaty establishes new modalities for the EU Council decision system. The new system is for implementation on January 1, 2005, regardless of whether new members would have by then joined the EU or not. It includes three major changes compared to the current system:

- (i) New weighting of the respective voting rights.
- (ii) An increase in the qualified majority threshold from the current 71% to nearly 74% for the EU-27, with some potential initial variations along the enlargement process.
- (iii) The addition of two supplementary decision criteria: the simple majority of member States and 62% of the EU population.

A careful analysis of the EU Council reform shows that the first change (i) is very satisfactory since it actually resolves the enlargement institutional challenge. On the contrary, the two others (ii) and (iii) introduce elements of regression in the Community system.

In accordance with the goal of the 2000 Intergovernmental Conference (IGC), the new weighting of the member States' voting rights significantly increases the role of the large members within the Council. The Nice Treaty gives large member States almost 10 times more voting rights than the smallest member. In comparison, large members would only have five times more voting rights than the smallest country if the current system were applied to the EU-27.

This new balance between the large and small member States is slightly less significant when measured in percentages of the total voting rights. The voting shares of large member States' voting shares will only increase from 7.5% to 8.4%. On this basis, the countries that benefit the most from the reform are Spain and Poland: their voting rights will increase from 6.0% to 7.8%.

The new weighted votes allocation in the EU Council for EU-27

UE-27	Voting rights		Percentage of total			Gap to the smallest	
	Current system	Nice Treaty	Current system	Nice Treaty	Impact of reform	Current system	Nice Treaty
Germany	10	29	7.5	8.4	0.9	5.0	9.7
France	10	29	7.5	8.4	0.9	5.0	9.7
United-Kingdom	10	29	7.5	8.4	0.9	5.0	9.7
Italy	10	29	7.5	8.4	0.9	5.0	9.7
Spain	8	27	6.0	7.8	1.9	4.0	9.0
Poland	8	27	6.0	7.8	1.9	4.0	9.0
Romania	6	14	4.5	4.1	-0.4	3.0	4.7
Netherlands	5	13	3.7	3.8	0.0	2.5	4.3
Greece	5	12	3.7	3.5	-0.3	2.5	4.0
Czech Rep.	5	12	3.7	3.5	-0.3	2.5	4.0
Belgium	5	12	3.7	3.5	-0.3	2.5	4.0
Hungary	5	12	3.7	3.5	-0.3	2.5	4.0
Portugal	5	12	3.7	3.5	-0.3	2.5	4.0
Sweden	4	10	3.0	2.9	-0.1	2.0	3.3
Bulgaria	4	10	3.0	2.9	-0.1	2.0	3.3
Austria	4	10	3.0	2.9	-0.1	2.0	3.3
Slovakia	3	7	2.2	2.0	-0.2	1.5	2.3
Denemark	3	7	2.2	2.0	-0.2	1.5	2.3
Finland	3	7	2.2	2.0	-0.2	1.5	2.3
Ireland	3	7	2.2	2.0	-0.2	1.5	2.3
Lithuania	3	7	2.2	2.0	-0.2	1.5	2.3
Latvia	3	4	2.2	1.2	-1.1	1.5	1.3
Slovenia	3	4	2.2	1.2	-1.1	1.5	1.3
Estonia	3	4	2.2	1.2	-1.1	1.5	1.3
Cyprus	2	4	1.5	1.2	-0.3	1.0	1.3
Luxembourg	2	4	1.5	1.2	-0.3	1.0	1.3
Malta	2	3	1.5	0.9	-0.6	1	1
TOTAL	134	345	100	100	0		

Note: The last column shows the allocation of vote when compared to the smallest member (*i.e.* expressed as the number of time the vote of the smallest member).

The importance of the reform is confirmed by other types of measurements, such as allocation indicators (*e.g.* Gini index), which show that the new weighting system does compensate for the effect of enlargement on the voting system balance. In that respect, the overall goal of the Nice negotiation regarding the EU Council reform is fully achieved.

On the contrary, the increase in the qualified majority threshold (QMT) constitutes a weakness in the Council reform decided in Nice: EU decisions will be more difficult to reach. Traditionally, this threshold has been established at about 71% of the voting rights since the creation of the European Community. In the EU-27, it will be at almost 74%, and this higher level creates many more possibilities for the formation of blocking coalitions.

Depending on the course of future enlargements, QMT may take different values over time. The Nice Treaty defines three different cases in that respect: EU-15, EU-27, and an evolution phase from EU-16 to EU-26.

- In the case of EU-15, *i.e.* in the hypothesis that no enlargement has occurred as of January 1, 2005, QMT is established at 169 votes of a total of 237, or 71.3%
- In the case of EU-27, the total number of votes is 345 and the treaty defines the blocking minority at 91 votes. This means a QMT of 255² votes, or 73.9%.
- In the case of enlargement from EU-16 to EU-26, the treaty is less specific. A progression in ad hoc percentages may be negotiated when enlargements occur. Another interpretation suggest that the blocking minority will be permanently established at 88 votes, regardless of the total of votes, with sharp QMT variations expressed in percentages. Furthermore, another rule will apply in defining the QMT: it will not be allowed to be higher than a 73.4% ceiling. Overall, the QMT should evolve rather progressively from 71% to 73.9% along the enlargement process.

The Nice Treaty adds two new decision criteria to the existing weighted voting system: a simple majority of member States and a minimum of 62% of the EU population. In the new system, a decision is adopted if the member States supporting the proposal represent at least the threshold of weighted votes, half of the total number of members, and 62% of the EU population.

Three criteria for the EU Council decision-making

² This rule of a 91 votes blocking minority overrides the other indication in the treaty that the QMT is established at 258 votes in EU-27.

UE-27	Current voting rights	Nice Treaty		
		voting rights	simple majority	share of population
Threshold (%)	71	74	50	62
Threshold	96	255	14	620
Germany	10	29	1	169
France	10	29	1	123
United-Kingdom	10	29	1	123
Italy	10	29	1	120
Spain	8	27	1	82
Poland	8	27	1	80
Romania	6	14	1	47
Netherlands	5	13	1	33
Greece	5	12	1	22
Czech Rep.	5	12	1	21
Belgium	5	12	1	21
Hungary	5	12	1	21
Portugal	5	12	1	21
Sweden	4	10	1	18
Bulgaria	4	10	1	17
Austria	4	10	1	17
Slovakia	3	7	1	11
Denmark	3	7	1	11
Finland	3	7	1	11
Ireland	3	7	1	8
Lituania	3	7	1	8
Latvia	3	4	1	5
Slovenia	3	4	1	4
Estonia	3	4	1	3
Cyprus	2	4	1	2
Luxembourg	2	4	1	1
Malta	2	3	1	1
TOTAL	134	345	27	1000

It may seem that the two new criteria will have important implications for the decision making system and for the power balance between member States. This is not the case however. Council decisions will actually be made almost exclusively on the basis of weighted votes, while the two new criteria will be mostly purposeless.

In the EU-27, when a coalition of member States reaches a total of 255 voting rights, the weighted votes threshold, it automatically has the required 14 members and 62% of the EU population, in almost all cases. Among all the wining coalitions on the basis of weighted votes, only 16 different coalitions are affected by the simple majority criteria³ and only 7 are affected by the population criteria⁴. Compared with the total of

³ This can be demonstrated by a simple calculation. To measure the effect of the simple majority criteria on the system, one must first identify the wining coalitions (on the basis of the weighted votes) which has the smallest number of members, i.e. the wining coalition composed of the biggest members (from Germany to Portugal, in descending order). This wining coalition has only 13 members and is a case where the simple majority criteria does play a role (this coalition is no longer a wining one). Identifying the second biggest wining coalition shows that it also has only 13 members, as well as a few other of the biggest wining coalitions. Then, when one gets to the coalition that includes from Germany to the Netherlands, plus 4 of the 5 members with 12 votes, plus 2 of 3 members with 10 votes, this winning coalitions has 14 members and is not affected by the simple majority criteria. It can then be shown that any other wining coalition will necessary have 14 members or more and, thus, will not be affected by the new criteria.

about 3 millions winning coalitions, the impact of the two new criteria is completely insignificant and bears no implication on the power balance.

As a consequence, the two new criteria have overall a negative impact because they introduce a higher complexity in the Council decision-making system and a lower transparency for the European citizens. For them, it will *appear* that the three criteria have the same political importance.

A game theory approach to the Nice reform.

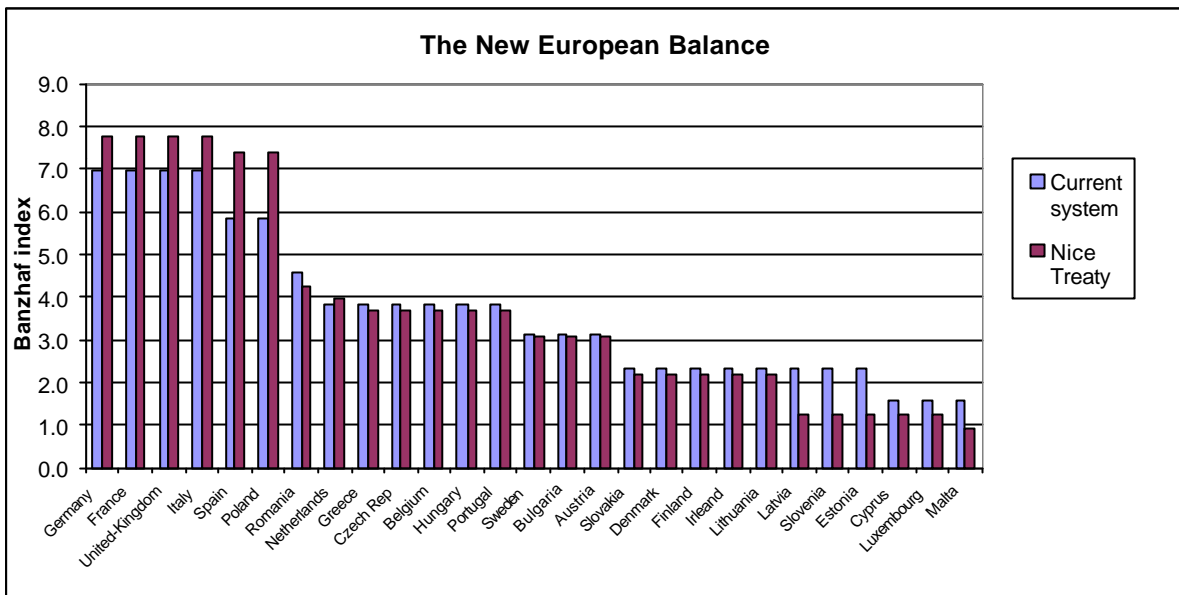
Game theory provides an analytical framework to identify EU member States' relative power and to measure precisely the implications of the Nice reform⁵. Such measurements present quantitative evidences that the reformed weighted voting rights compensate the power shift resulting from enlargement to EU-27⁶. Large member States' influence is significantly enhanced and stabilized, as intended. When using this measurement method to the five other reform scenarios officially considered at the Nice IGC, the comparison shows that the Nice agreement produce similar results than the second best scenario.

Power allocation among member States Comparison between the current system and the Nice Treaty for EU-27

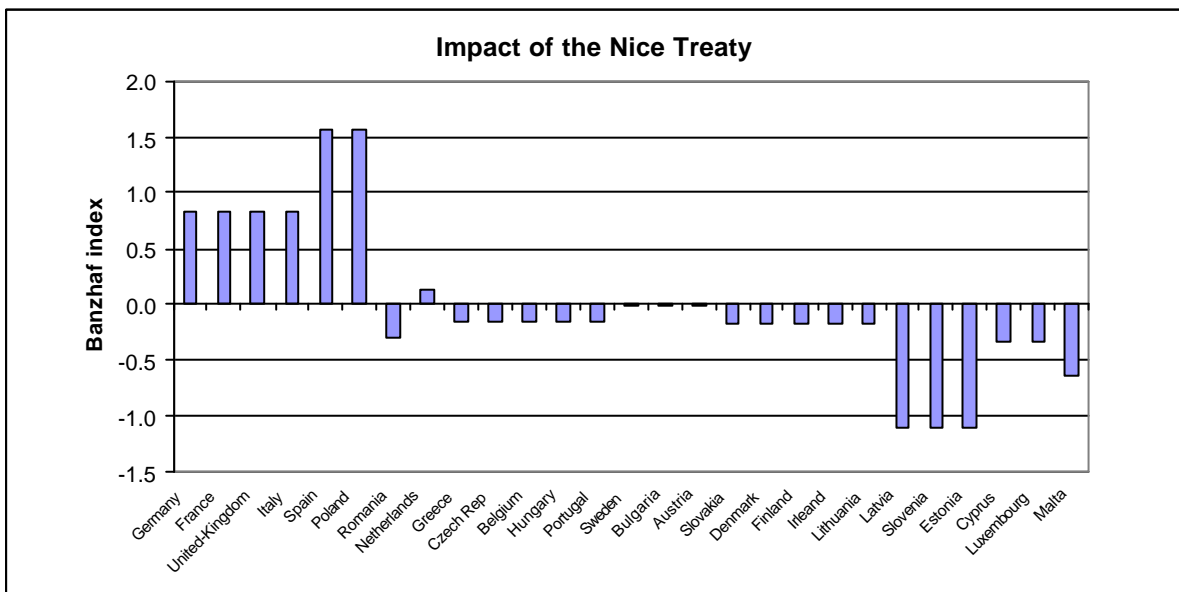
⁴ The same kind of demonstration can be made with respect to the population criteria. In that case, one has to start from the smallest winning coalition (the coalition formed with the smallest member States). This result will, however, be affected later by the demographic evolution of member States.

⁵ For this game theory analysis, we use the Banzhaf index, as is most common in the litterature. The Banzhaf index measures member States' capacity to generate winning coalitions in the Council: it catches the relative capacity of member States to transform losing coalition into winning ones (by joining it). The Shapley-Shubick index is not used here because the order in which the votes are made is considered irrelevant in the case of the EU Council (considering the practical functioning of Council and since members States have informal exchange of views before officially taking stand).

⁶ The Banzhaf index are calculated for both the Nice Treaty system and the current system applied to UE-27, for comparison purpose.



Impact of the reform for the EU-27

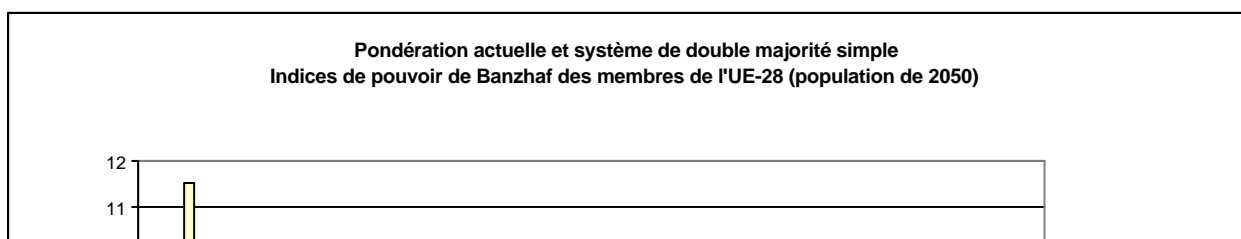


One of the other scenarios considered during the IGC is the dual simple majority system (DSM), which combines a simple majority of member States with a simple majority of EU population. This proposal received some support because of some of its features: simplicity and transparency of the decision-making. However, game theory analysis shows major and unexpected downsides of this scenario. The DSM would have three significant negative consequences on the EU decision system.

- a) The DSM increases the power of the large member States and that of the smallest members, to the detriment of medium-size members. This peculiar effect on the power balance of the EU Council is the result of the internal working of the DSM:

large countries benefit from the "simple majority of population" side of the DSM and smallest countries benefit from the "simple majority of States" side of the DSM, while medium-size countries benefit from neither. This shift in the power balance was not justifiable vis-à-vis medium-sized countries, nor was it legitimate or in accordance with the goal of the IGC (to increase the influence of the large members to compensate the effects of enlargements).

- b) In the case of the DSM, the decision threshold is reduced from 71% to 50% (for both decision criteria), which sharply facilitates the decision capacities of the Council. This has two major political consequences. First, the higher easiness of the Council to adopt the Commission's proposal reduces the member States' incentives to work on compromises when disagreements occur among themselves. This situation is then likely to lead to permanent conflict within the Council. Second, the traditional institutional equilibrium between the Commission and the Council is deeply modified, with a very significant shift of power from the Council to the Commission. The Commission would overpower the Council because it would be in a position to fully design all Community decision without much opposition from the Council: most Commission's proposals are unlikely to be rejected by the Council, even when many member States oppose them (in comparison to the current equilibrium).
- c) On the long term, under the hypothesis of Turkey joining the EU, the DSM would have the consequence of alienating Community decision to the dominant influence of Turkey. With its sharp demographic growth (100 million inhabitants in 2050), Turkey would automatically be placed as a dominant player in the EU Council, since it would directly benefit from the "simple majority of population" side of the DSM. Turkey would have a very high capacity to form blocking minorities.



Game theory analysis also suggests some explanations for the IGC negotiation structure and provides some insights on the underlying reasons leading to the shaping of the Nice agreement. The IGC can be formalized as a global game between the 15 member States. That global game is structured primarily as a game between two groups with divergent interests, respectively the large and the small members States. Besides the global game, a sub-game with fewer players is another driving force in the IGC negotiations. In this sub-game, only the largest members fully took part, with divergent interests. The focus of the players in this sub-game was the parity issue and their respective capacity to form blocking coalitions in an enlarged EU. Spain and Germany in particular have been active players in this sub-game.

The request from Spain to obtain a blocking power in parity with the four large members (France, Germany, United-Kingdom, and Italy) is the main driving force behind the high qualified majority threshold in the Nice Treaty. The new weighted vote allocation gives 27 votes to Spain (and Poland) and 29 votes to the four large members. This two-vote difference, combined with a high QMT (especially the 88 votes blocking minority rule) establishes a quasi-parity of power between these six countries. They are in a quasi-parity since they have the same capacity to form a blocking minority: any coalition of 3 of the larger members (among any of the 4 large members or Spain or Poland), plus any additional fourth country, including the smallest.

Another offensive player in the sub-game was Germany with its undertakings to gain a breakup of parity with the rest of the large members (France, United-Kingdom,

and Italy). This is the underlying reason behind the addition of the population criteria in the Council decision-making system. Furthermore, since this supplementary criteria was not convergent with the interests of small member States, this addition in turn affected the equilibrium in the global game, and led to the further addition of the criteria of simple majority of member States.

The German government's aim at breaking the traditional parity among large member States is neither in line with the Community heritage, nor with today's German democratic system.

Parity among large member States is a fundamental base of European integration, it is a founding principle of the Community, established at the very origin of the initial agreement creating the European Community. In its *Mémoires*, Jean Monnet describes in details this founding agreement:

- "I [Jean Monnet] am authorized to propose you [Konrad Adenauer] that the relationship between Germany and France within the Community be governed by the parity principle in the Council, as well as in the Assembly and in all European institutions, current or future, whether France's participation includes or not the Union française [i.e. overseas territories] and whether Germany be that of the West or reunified. I would personally add that it is in this spirit that, since the beginning, I have considered the offer of union at the origin of this treaty, and I believe I understood during our first meeting that you had the same view."
- "I [Konrad Adenauer] am happy to give you my full agreement to your proposal, because I don't conceive the Community without total parity[...]"⁷

The reason behind the parity principle rests on a consciousness of European history. Over centuries, the temptations for one or another large European country to dominate Europe have been the cause of many wars. European States' domination intentions, or the fear of the threat of domination from a neighbor, have been strong incentives to build heavy armaments and to wedge war against one another. In that perspective, institutionalizing parity between large European States is a way to dismantle this incentive. The parity principle makes impossible any domination attempt. Parity further serves as an insurance against domination risks, and thus creates the conditions for building mutual trust, both between States and between populations, which is a recurrent necessity for political integration.

The parity principle is also at the heart of the German federal system itself. In the Bundesrat, the institution where the government of the Länder are represented, weighted voting rights are allocated to groups of Länder, in a parity system of group of Länder (just as in the EU Council). The four large Länder have each the same number of votes, despite a very significant gap between their respective population, the largest having more than twice the population of the smallest of the group, a far bigger difference than that among the four large EU member States.

⁷ Meeting between Jean Monnet and Konrad Adenauer on April 4, 1951, in Bonn, for the preparation of the European Coal and Steel Community treaty. Jean Monnet, *Mémoires*, Fayard, 1976, pp. 414-415.

Democratic representativity in the EU Council and in the German Bundesrat

Germany Large Länder	Voting rights in Bundesrat	Population		
		M inhabitants	Percentage	Index
Rhénanie du Nord-W.	6	17,975	37	229
Bavière	6	12,066	25	154
Bade-Wurtemberg	6	10,397	22	133
Basse-Saxe	6	7,845	16	100
		48,283	100	(Basse-Sx=100)

EU Large Member States	Voting rights in the EU Council	Population		
		M inhabitants	Percentage	Index
Germany	29	82,038	32	142
France	29	60,186	23	104
United-Kingdom	29	59,247	23	103
Italy	29	57,612	22	100
		259,083	100	(Italie=100)

Sources: European Commission; Statistisches Bundesamt, *Statistical Yearbook*, 1999.

This parity among the four large EU member States will remain an essential component of the functioning of the future EU Council, since the new criteria of population (and simple majority) will hardly have any influence on the decision-making system. Overall, in the future EU-27, only one case of a winning coalition formation will be affected in a way to create an asymmetry between Germany and the other 3 large member States. This is one case of suspension of parity in a total of about 3 million of winning coalitions, where parity remains the rule.

The global balance within the EU Council in an enlarged Europe is the emerging of Spain and Poland as two member States with a political influence will be very close to that of the four large member States--France, Germany, United-Kingdom and Italy--which will essentially be under the parity rule.

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Annex

Population of European States: évolution 1999-2050

In thousands and in comparison to (France = 100)

Countries	1999		2020		2050	
	Thousands	F=100	Thousands	F=100	Thousands	F=100
Belgium	10,213	17	10,017	16	8,918	15
Denemark	5,313	9	5,283	8	4,793	8
Germany	82,038	139	80,996	130	73,303	120
Greece	10,533	18	10,141	16	8,233	14
Spain	39,394	67	37,627	60	30,226	50
France	58,966	100	62,495	100	60,941	100
Ireland	3,744	6	4,302	7	4,710	8
Italy	57,612	98	52,913	85	41,197	68
Luxembourg	429	1	464	1	430	1
Netherlands	15,760	27	15,876	25	14,156	23
Austria	8,082	14	8,279	13	7,094	12
Portugal	9,980	17	9,515	15	8,137	13
Finland	5,160	9	5,266	8	4,898	8
Sweden	8,854	15	9,099	15	8,661	14
United-Kingdom	59,247	100	59,845	96	56,667	93
Bulgaria	8,230	14	7,282	12	5,673	9
Cyprus	752	1	886	1	913	1
Estonia	1,446	2	1,170	2	927	2
Hungary	10,092	17	9,167	15	7,488	12
Latvia	2,439	4	1,999	3	1,628	3
Lithuania	3,701	6	3,465	6	2,967	5
Malta	379	1	427	1	421	1
Poland	38,667	66	39,318	63	36,256	59
Czech Rep.	10,290	17	9,743	16	7,829	13
Romania	22,489	38	20,530	33	16,419	27
Slovakia	5,393	9	5,446	9	4,836	8
Slovenia	1,978	3	1,871	3	1,487	2
Turquy	64,385	109	84,187	135	100,664	165
Norway	4,465	8	4,777	8	4,758	8
Switzerland	7,386	13	7,624	12	6,745	11
Iceland	281	0	321	1	341	1
Lichtenstein	31	0	31	0	31	0
Albania	3,113	5	3,663	6	4,322	7
Bosnia-Herzeg.	3,972	7	4,372	7	3,767	6
Croatia	4,473	8	4,279	7	3,673	6
Macedonia	2,024	3	2,226	4	2,302	4
Yougoslavia	10,640	18	10,841	17	10,548	17

Sources : European Commission; UNO, *World Population Prospect*, 1998, (medium variant).