

EUSA Ninth Biennial International Conference  
March 31- April 2, 2005  
Austin, Texas

## **Continuity and Change in the post-Constitution EU Presidency: A New Actor in Town?**

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**Abstract:** In the post-Constitution EU, the rotating Presidency has been replaced by a hybrid system combining a rotating component with the establishment of a permanent President for the European Council (and a Minister of Foreign Affairs). We examine how the new system came into being, the significant departure from past institutional arrangements and practices and most importantly the implications of such a development for the EU political order. The new system sets in place a new institutional actor; the question we address is whether this new institutional actor has the potential of evolving into an autonomous political actor as well. Using a principal-agent framework we look at the various functions of the President, the available resources, and the endogenous and exogenous parameters that will affect the President's effectiveness and efficiency, with particular emphasis on the control mechanisms set up by member states to check the President's actions. Our analysis suggests an unmistakable though by no means unconditional strengthening of the Presidency's potential for an autonomous political role in the new EU constitutional architecture.

**Keywords:** EU President, Constitution, European Council, principal-agent.

## ***Introduction***

The Constitutional Treaty of the European Union, currently under ratification, constitutes another attempt to adjust the over-stretched EU institutional structures to the new environment that emerged following the latest enlargement round. The main issues on the agenda of the Convention and the subsequent IGC concerned primarily the institutional design of the enlarged EU, in particular the weighing of votes in the Council, the formation of the Commission and the EU Presidency system. It is this last agenda item that constitutes the focus of this paper. Rotating Presidencies for a long time have attracted little attention, with some notable exceptions. A few early publications dealt explicitly with the Presidency (Wallace and Edwards 1976; Dewost 1984; Wallace 1985; de Bassompierre 1988; Kirchner 1992), with some additional input from works on the Council of Ministers (Westlake 1995; Hayes-Renshaw and Wallace 1997; Sherrington 2000). Case studies dwelled on the general record of particular Presidencies, their performance in particular fields or their role in IGC negotiations.<sup>1</sup> Departing from the earlier descriptive focus, more recent comparative work has attempted to provide a more compact typology of Presidential functions and parameters affecting the efficiency of each Presidency (Elgström 2003; Tallberg 2004, 2003; Metcalfe 1998, etc.). By the time the Presidency had begun to attract the attention of the academic community, the Draft Constitution came to alter considerably the terms and conditions under which the Presidency operates.

In that respect, the emerging, post-Constitution, hybrid system needs to be closely examined. It combines permanent and rotating Presidencies, the former for the European Council and the Council of Ministers of Foreign Affairs and the latter for the other technical Councils. According to the Constitutional Treaty, the European Council President will be elected by qualified majority vote for a term of two and a half years renewable once. In the event of an impediment or serious misconduct, the President's term in office can be ended with the same voting procedure. The tasks of the President include chairing the European Council and driving forward its work, providing preparation and continuity, facilitating cohesion and consensus within the European Council and ensuring the external representation of the Union without prejudice to the powers of the Union Minister of Foreign Affairs (Article I-22). The Union Minister will have a 'double hat' presiding over the Foreign Affairs Council and being one of the vice presidents of the Commission. The Minister's primary responsibility will be to ensure consistency of the Union's external action (Article I-28). Finally, the Presidency of the Council in its various formats will be held by member state representatives on the basis of equal rotation in accordance with a decision to be reached at a

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<sup>1</sup> See for example the Presidencies' assessment in the *Journal of Common Market Studies* Annual Review and *South European Society and Politics*; Wurzel 1996, 2000; the contributions in the edited volumes by Elgström (2003) and

later stage at European Council level (Article I-24). The draft arrangement refers to pre-established groups of three member-states for a period of 18 months, each member of the group chairing in turn for a six-month period all configurations of the Council (Declaration on Article I-24 (7)).

This new, two-tier system renders most previous scholarly work on Presidencies useful but incomplete. This paper seeks to contribute to closing this literature gap. Adhering to the value as well as the validity of theoretical eclecticism, insights from various strands of institutionalist and intergovernmentalist theory are used to examine continuity and change in the new system. To do so we need to address whether the new system leads to changes in the functions of the Presidency and the parameters affecting its effectiveness and efficiency.<sup>2</sup> Even more importantly perhaps, we need to understand the reasons for such an institutional change and question whether a new political actor has come to town, which would have significant implications for the inter-institutional balance of power and the pace and scope of integration.

The paper comprises two sections. Starting with a review of the evolutionary nature of the Presidency, the first section presents the debate in the European Convention and the IGC, highlighting the significant rupture with earlier practices. This rupture occurred both with regard to the institutional outcome (emergence of new supranational actors in the posts of the permanent President and the Union Minister of Foreign Affairs) and the procedure through which this outcome was reached (being the focus of a major intergovernmental bargaining). The section addresses two questions: why was this hybrid system of Presidency set up in the first place and why did this happen through an IGC? The second section focuses on the role of the permanent President in the new institutional architecture in light of the problems inherent in any principal-agent relationship. It discusses the conditions under which the new supranational actor can take advantage of the potential, theory-prescribed, control slack and assesses such potential in view of the existing institutional arrangements.

Our contention is that radical changes in the EU environment have altered the way member-states perceive the efficiency frontier of the Presidency system. That has increased demand for substantial structural change, involving delegation of power and authority to a new body. Such a reform constituted a departure from the evolutionary path of the Presidency, which explains why the issue became one of the 'hot spots' of the last IGC. The fact that agreement on the Presidency system required unanimity and was part of the broader Constitutional package deal largely explains the hybrid format of the new system as a compromise between different perceptions of the most

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O'Nuallain (1985); the relevant chapters in the edited volumes by Laursen and Vanhoonaeker (1992) and Laursen (2002) on the Maastricht and Amsterdam IGC negotiations respectively, etc.

<sup>2</sup> We understand effectiveness as correspondence between goals and outcomes; with regard to the Presidency, effectiveness denotes successful fulfillment of its tasks. We understand efficiency in input-output ratio terms; with regard to the Presidency, the term denotes an efficient employment of resources towards realizing its objectives.

appropriate Presidency format. The structural features of the new system—in particular the permanent President of the European Council and the Minister of Foreign Affairs—allow for a principal-agent conceptualization of the Presidency. We argue that the vague new systemic environment is conducive to the President/agent exercising political entrepreneurship, bypassing the Constitutional constraints to the President's scope of intervention. Realizing this potential will depend to a great extent on the capacity of the President to perform its functions and especially provide political leadership and external representation in the complex EU-25 institutional environment.

### ***Understanding Continuity and Change in the EU Presidency System Reform***

This section sets to portray the dynamics of institutional change in the EU Presidency system. We argue that a fundamental change has taken place in the new system, in which the Presidency is no longer considered an office/function of an institutional body (Council) but has acquired its own institutional status. However, the pre-existing configuration has not been totally abandoned. As a result, a hybrid system has been created that combines sovereignty pooling through the rotating Council Presidency (in which all member states participate in turn), and some degree of power delegation to new institutional actor(s). The section highlights the departure from earlier patterns in terms of both outcome and negotiating process by briefly reviewing the genesis, evolution and reform of the Presidency. It discusses the reasons for the specific institutional transmutation that occurred in the Constitution-building process and its modality in the light of different theoretical insights on institutional change.

### ***Dynamics of Institutional Change in the EU***

We broadly adhere to the rational design approach of institutions, acknowledging, however, that this approach can explain much but not everything about institutional design. In brief, institutions<sup>3</sup>, whether with a highly formalized format or derived through informal and evolutionary processes, embody significant rational design principles and are set in place to promote cooperation and make it more resilient for the purpose of enhancing actors' prosperity. In this functionalist logic, particular institutional arrangements are preferred over others to further the individual and collective goals of the actors involved. Therefore, the rationally anticipated effects of given institutions, subject always to some degree of uncertainty, explain actor preferences for certain types of institutions (Pollack 1997: 103; more generally Hall and Taylor 1996; Shepsle 1986, etc). Subsequently, when specific institutional arrangements cease to perform these functions, they

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<sup>3</sup> Institutions are understood as single or complex sets of rules, either formally established or tacitly understood, which govern actors' interaction and prescribe their behavior (North 1990). Knowledge of these rules must be shared by all members of the relevant community or society (Knight 1992:3).

become extinct or call for modification. In that respect institutional development and change may arise due to new conditions or new problems that have rendered the existing institutional arrangements dysfunctional or less capable of producing prosperity-enhancing negotiating outcomes for all participants (Koremenos, Lipson and Snidal 2004: 3-8). If the main reason for institutional change/adaptation is the changing environment and its impact on the functions the institution is expected to perform, the exact modality depends on the magnitude and implications of the required change.

However, it would be quite unrealistic to assume total institutional 'thinness', which would suggest continuous institutional changes following every single realignment of actors' preferences. That, apart from presupposing a frictionless world, would lead to an infinite regress to temporary institutional outcomes, canceling out any advantages from setting an institution. In that respect, institutional design, continuity and change can be understood through at least three different processes. Rational choice institutionalism casts aside short term, myopic actors' behavior and considers the interaction of actors in an institutional environment along highly strategic terms, with contracting parts acting instrumentally to maximize the attainment of their preferences over a longer time frame (Hall and Taylor 1996: 944-945; Pettit 1996).<sup>4</sup> Hence, RCI postulates *strategic* actors' interaction and a long-term '*calculus approach*' to understand institutional genesis and evolution. In some contrast, historical institutionalism argues that institutional stability is much owed to the continuing and largely determinate influence of the formative set up choices on the later policy and format institutional outcomes (Peters 1999: 63; Hall and Taylor 1996: 937-942; Thelen and Steinmo 1992). 'Path dependency' and 'critical junctures' (Krasner 1984) are used to describe the HI argument and highlight the inertia that any institutional reform attempt needs to overcome. In this view, HI implies a course of incremental evolution delimited by the (perhaps dysfunctional in the present) decisions of the formative years punctuated with crises or windows of reform opportunity that generate more substantial changes to the design and evolutionary course of the institution (Peters 1999: 65). Finally, not fully adhering to the rationalist design but offering additional insights to continuity and change of institutional structures, sociological institutionalism focuses on the 'social appropriateness' of specific institutional arrangements reflecting the actors' shared norms and values in contrast to the logic of 'instrumentality' (Campbell 1989). In that respect, the prominence of norms constitutes the key condition to the actors' policy and institutional predisposition, and

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<sup>4</sup> RCI can be distinguished to two approaches, *functional* and *distributional*, each of which emphasizes a different mechanism of reaching institutional choices. The functional approach stresses the joint gains from solving collective action problems by coordinating on a specific institutional outcome whereas the distributional approach focuses more on the uneven distribution of the joint gains among the actors involved. Hence, in the distributional approach, institutional outcomes will reflect asymmetries in actors' bargaining power rather than the mutually perceived attractiveness of an efficient solution to a given collective action problem (Stacey and Rittberger 2003: 864-865; Knight 1995).

changes in the normative or ideational orthodoxy will lead to institutional change (Stacey and Rittberger 2003: 866).<sup>5</sup>

Coming to the EU specific institutional setting, we should bear in mind that the EU's institutional architecture has been the outcome of two different types of integration dynamics (Stacey and Rittberger 2003: 863). The first one characterizes major intergovernmental conferences (IGCs), whereby member-states' governments have taken part in multilateral negotiations concluded by pooling or delegating authority, power and national sovereignty to better serve national interests. The institutional outcome of these history-making decisions has been the creation (and further evolution) of collective majoritarian (Council) and supra-national (Commission, European Court of Justice) bodies responsible for the scope and pace of European integration (Moravcsik 1998, 1993; Milward 1992, etc).

However, in conditions of bounded rationality, uncertainty and informational asymmetry among negotiating partners, writing complete contracts is an extremely difficult and costly task. Hence, instead of writing fully specified and minutely detailed agreements, contracting parties are prone to commit to incomplete contracts, that is framework treaties or covenants that spell out in general terms the obligations of all parties involved throughout the life of the contract (Pollack 1997: 103-104; Williamson 1985: 3). Incomplete contracting also derives from the inherent difficulty of contracting parties to construct agreements that anticipate every possible contingency especially in interactions characterized by great dynamism such as those occurring in the EU milieu. As a result of such incomplete contracting in the EU Treaties, further sovereignty pools and transfers have occurred during the process of European integration. They have derived either from court-related jurisprudence clarifying clauses of the founding Treaties or from informal rule creation through day-to-day interaction (Stone Sweet 1999; Alter, 1998; Burley and Mattli 1993 etc). This *interregnum type* of integration, being incremental in nature, occurs in-between formal bargains and derives primarily -but not exclusively- not from member states but rather from other EU supranational bodies (Stacey and Rittberger 2003: 863).

Hence, according to the type-specific, policy-making dynamics, institutional change in the EU may occur either as a result of 'big-bang', history-making intergovernmental negotiations or as an outcome of incremental adaptation taking advantage of the gaps in the constituent incomplete contract. In the light of this dichotomy and in line with Puchala's (1973) often-repeated 'blind man

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<sup>5</sup> Note that rationality and norm-based behavior are not totally incompatible. The critical element that distinguishes the two approaches is the underlying logic behind a norm-adjusted behavior. In the rationalist account, actors can adhere to norms for instrumental reasons (assessment of possible political sanctions and damages on the future reputation as a cooperative partner) on the basis of a logic of consequences. In the sociological account, actors internalize norms, as a result of which they no longer make an active choice in conforming to them but adhere to them automatically (Finnemore and Sikkink 1998: 909-911).

and the elephant of integration' metaphor, different theoretical approaches can be applied to understand policy-making dynamics in each integration type and explain delegation decisions and specific institutional designs (Peterson and Bomberg 1999).

### ***Genesis, Evolution and Reform of the EU Presidency System***

The Council Presidency grew in stature over time by default rather than by design (Kirchner 1992: 71). The founding Paris (Article 27) and Rome (EEC, Article 146 and Euratom, Article 116) Treaties provided little substantial base for the emergence of another fully-fledged, institutional body. The role originally envisaged for the Council Presidency was simply that of an ordered sharing out of the responsibility to chair the Council's meetings. Largely considered a function and an office attached to the Council rather than a separate institution, the Presidency followed the ebbs and flows of the Council's evolution (Westlake 1995: 37; Kirchner 1992: 70).

Two factors contributed substantially to the Presidency's ascendance in the EC/EU institutional system: successful response to emerging functional needs and the lack of formal delimitation of the presidential tasks (Hayes-Renshaw and Wallace 1997: 135). The former provided the impetus for competence expansion and the latter ensured flexibility in the evolutionary process. Hence, a series of important developments in the EC history mounted pressures on member states' governments to exercise certain degree of political leadership and improve intergovernmental and inter-institutional coordination.<sup>6</sup> These developments substantially altered the terms of intergovernmental and inter-institutional interaction, the Presidency acquiring new coordinating, brokering and administrative tasks with the implicit acquiescence of the Council. As a result of responding to the challenges and coping with these tasks effectively, the Presidency grew out of its day-to-day managerial role to enjoy a more strategic positioning in the EC/EU decision-making system, rendering almost impossible a case of the Council reaching a decision against the desires of the Presidency (Johnston 1994: 25). This entrusting of authority was facilitated by the fact that no formal codification and delimitation of the Presidential tasks and functions had ever been realized and explicitly put in the EC/EU constituent documents.<sup>7</sup> Therefore, no formal negotiations or Treaty amendments were

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<sup>6</sup> Besides the Luxembourg compromise, these developments comprised the multiplication of Technical Councils and the emergence of the European Council in the 1970s, the nascence of European Political Cooperation (EPC) and its successor (CFSP), as well as the successive enlargements from six to fifteen members (Sherrington 2000: 41).

<sup>7</sup> A first, 'practical, not legal' clarification of the Presidency's principal tasks was attempted as late as 1979, in the 'Report of the Three Wise Men'. According to that Report, the Presidency "...convenes meetings of the Council of Ministers. It is responsible for advance preparation of the agenda; for the circulation of the necessary documents; for the allocation of time at the meeting and the conduct of debate; for the formulation and implementation of decisions. The Presidency's basic duty in this process is simply to get results. To do so it must work with technical efficiency, but also exercise a strong and politically sensitive control of the proceedings. It must select for the agenda the items, which are most urgent, important and ripe for handling. It must prevent time wasting and confusion at the meeting itself. It must urge the debate towards conclusions by using the most appropriate combination of the weapons at its disposal (pressure, mediation, compromise proposals, time limits, voting)" ('The Three Wise Men Report' 1979: 36). A very basic outline of the Presidency's tasks was introduced in 1986, in the Single European Act (in Title III with regard to the European

required for the readjustment of the Presidency's allocated competences. The gradual ascendance of the Presidency as a key factor to the Council's functioning raised awareness, generated concerns about its potential effectiveness and brought to the foreground reform proposals, which however remained always at the fringes of negotiation in previous rounds of institutional reform.<sup>8</sup>

In contrast to previous practices, however, the status and format of the Presidency became one of the central issues in the European Convention and the subsequent IGC.<sup>9</sup> The first issue that was put in the discussion was whether the Presidency should become the single locus of executive power within the Union, merging the posts of the Commission and Council Presidents ('double hatted' Presidency). Alternatively, the 'separate hats' version advocated separate Presidents for the Commission and the (European) Council with executive power exercised by both (Craig 2004: 15; Hoffman 2003).<sup>10</sup> The second highly contested issue with regard to the Presidency system once the 'separate hats' option came to the ascendance was the strengthening of the Presidency in the form of some kind of more permanent structure and the abolition of the previous rotating scheme. Around this issue, two camps were basically formed during the various stages of the debate. The first camp advocated the radical overhaul of the existing rotating system of Presidency with the appointment of a permanent President chosen by the European Council from among its former members. The idea of a longer-term, strengthened Presidency was central to the 'ABC' view (Aznar, Blair, and Chirac) supported by Spain, UK and France in the Convention. The joint Franco-German contribution brought Germany on board in support of the permanent President format with the *quid pro quo* acquiescence by the French side to an elected Commission President (CONV 489/03; *Financial Times* 15.01.03). This suggestion was backed by Convention Chairman Giscard d'Estaing only to cause the vehement reaction of the more pro-integration Convention members, the EP representatives and the Commission (Norman 2003: 2).<sup>11</sup> Their strong reaction to the Presidium's

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Political Cooperation) and in 1992, in the Treaty of European Union (more prominently in articles J and K establishing the second and third pillars respectively). Updated and more detailed accounts were provided in the Council's Rules of Procedure (for example ROP 1979, 1987, 1993). However, in all cases, the various clauses reflected established practice -primarily from the foreign policy field (EPC or CFSP)- rather than prescribed new practice (Hayes-Renshaw and Wallace 1997: 139).

<sup>8</sup> Ideas hovering in that debate included extended periods beyond the six months, team presidencies, the creation of a 'directorate', an elected presidency, an enhanced partnership of the Presidency and the Commission, etc (Hayes-Renshaw and Wallace 1997: 153-155).

<sup>9</sup> Indicative of the sensitivity of the issue in question was the number of amendments submitted to the Articles referring to the Presidency, see <http://european-convention.eu.int/amendments.asp?content=41699&lang=EN>

<sup>10</sup> The 'double-hatted' President was most prominently put forward in the Duff-Dini contribution, which advocated that a combined Commission/Council President would enhance the EU's efficiency and transparency (CONV 524/03; for a discussion of the advantages of such a system, see Crum and Coussens, 2003). The joint Franco-German contribution of de Villepin and Fischer (CONV489/03) and the British 'non-paper' (Grevi 2003: 6) positioned the three countries to the second camp endorsing the 'separate hats' option (for a critique of the Franco-German proposal, see Hughes, 2003; for support, see Hoffman, 2003). However, the two sides did coincide with the need to establish a 'double-hatted' Minister of Foreign Affairs. With regard to the Council Presidency, the Duff-Dini suggested a kind of rotation according to the existing system whereas the Franco-German proposal remained quite ambiguous referring to the necessity of equal participation of member states on a system of rotation (Hoffmann 2003: 3).

<sup>11</sup> The main concern expressed by smaller member-states was that such a development would reinforce the Council against the Commission and the larger countries at the expense of the smaller ones. The EU institutional bodies opposed



announcement of the Constitutional provisions on the Presidency led to the watering down of these proposals but the main concept was embodied in the Draft Constitution (Article I-21) and remained largely unscathed in the subsequent IGC.<sup>12</sup>

### *Institutional Change and the EU Presidency System*

The evolutionary nature of the Presidency affirms a functionalist reading of the Presidency office in the sense that it emerged and evolved primarily as a response to the needs and the changing conditions in the scope and pace of European integration. The ever expanding EC/EU agenda and successive enlargements multiplied both the negotiating games and the players involved, thus increasing the need for more efficient agenda management, inter-sectoral policy coordination and effective brokerage. Hence, the rising demand for these functions was met by the gradual empowerment of the rotating Council Presidency. Two basic principles of the Presidency were entrenched from the very beginning in the design of the Presidency. The member states themselves would perform this task instead of a collective representative (like the NATO Secretary General) and each member state would occupy the office in turn regardless of size, economic power or political weight (Wallace 1985: 2).

The Presidency evolved over time in response to the changing conditions but largely preserved these two basic organizational principles of the original format. Furthermore, the agreement outlining the statutory position and the competence of the Presidency was framed very loosely and outside any formal framework, setting implicitly the goal of moving integration outcomes towards the Council's Pareto efficiency frontier rather than defining the exact modality of achieving this goal. The assignment of these powers and functions to an office under the direct control of the (still intergovernmental albeit majoritarian) Council and the element of rotation, which ensured co-responsibility, appeased concerns of national sovereignty encroachment. Direct control and rotation ensured that the strategic calculus of all constituent member-states (embedded in the broader environment of 'nested games' with regard to the EC/EU institutional architecture) largely adhered to this particular Presidency format. As long as such an adherence was the case, there was no need to engage in substantial changes and the Presidency ascendance in the EU institutional order took place within the evolutionary path that was largely defined by the early formative agreement. That explains why the evolution of the Presidency occurred during the *interregnum period* between the 'big bangs' of European integration with the Council as a collective body being the entrusting agent.

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the dual Presidency system on the grounds of potential power competition and institutional rivalry (Craig 2004: 16). The 'federalist camp' tried to 'kill off' the permanent Presidency proposal by suggesting a lightening of the Presidency's burden and the refocusing of the Presidency on the procedural responsibilities while transferring most of its executive tasks to the Commission (Crum and Coussens 2003).

<sup>12</sup> For a discussion of the Treaty clauses and an assessment of the potential power and authority shifts in the emerging Constitutional order, see Craig, 2004.

Over this period, the Presidency is considered to have developed its own norms of neutrality and impartiality, signifying that it constituted an office of the Union and not a means for the country holding the Presidency to pursue national objectives.

Contrasting the genesis and evolution of the Council Presidency to the most recent reform attempts in the Constitution building phase, makes it easy to discern some critical points of rupture. Significant rupture with past practices constitute both the outcome of the reform process, that is the new hybrid format of the Presidency, and the modality of this change through formal bargaining instead of an informal adaptation process. The functionalist approach invites us to consider the fundamental change in the strategic EU environment within which member states interact. This new environment -which is largely the outcome of expanding membership-, the call for a more assertive EU international presence and more broadly the emerging constitutional order, have altered the Presidency functions (more on which in the following section) and have challenged the capacity of the rotating scheme to perform them. In that respect, changes in the EU environment have altered the efficiency frontier of the Presidency, lifting for some member states the bar of the functionalist ambition (and expectation) regarding the role and functions of the Presidency. In the emerging environment, the collective efficiency gains to be reaped from preserving the rotating Presidency status quo appeared highly suboptimal, at least from the standpoint of a cluster of member-states, mainly comprising 'the big beasts in the EU jungle'. Hence, these latter withdrew their support from the rotating format whereas other member-states in their own cost-benefit analysis continued to adhere to the old system.

The reformist proposal of establishing a permanent Presidency signified a radical departure from the two long-standing organizational tenets of the Presidency system. Decision on such a radical rupture that would involve delegation of authority to an autonomous institutional actor and would change the evolutionary path of the last forty years could not be taken within the framework of Council deliberations. It had to be the subject of a major intergovernmental conference. Once elevated to that level, the outcome would be inevitably linked to the broader integrationist agenda and the bargaining power balances. Given the unanimity requirement for the final Constitutional reform package, the hybrid Presidency system emerged as the 'common denominator' solution in an attempt to bridge the gap between the two opposing camps. In that respect, the new Presidency system is the outcome of two distinct competing strategic pursuits about the Presidency, one of which was reinforced by forces of inertia accumulated over the last forty years. One may even consider to what extent concerns about a violation of norms in the Presidency's performance of its functions have been also influential for both camps in shaping their position.<sup>13</sup>

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<sup>13</sup> Proponents of change have put forward the argument that the permanent President will have no individual preferences over negotiating outcomes and hence, (s)he will focus on reaching the Pareto frontier rather than sub-optimal but national interest-enhancing decisions. Critics of the permanent Presidency have counter argued that the permanent

We have argued that the Presidency system has evolved incrementally during the first forty years of European integration in response to particular needs. During that period, it followed the evolutionary path delimited in its early formative years, with change occurring outside formal intergovernmental conferences and bargaining because of the largely convergent strategic pursuits of member states. The new integration environment has altered the envisaged role of the Presidency. This has led some, mostly larger, member states to adhere to a new institutional format as better fit to meet the new challenges. The magnitude of change with the abandonment of a forty year-long path of action (with the accumulated inertia involved) and power delegation (at least partly) to a new institutional body was beyond the scope of the Council and required handling within an IGC framework. The hybrid outcome reflects relative bargaining power in the IGC negotiations, unanimity requirements and the package deal nature of the Constitutional Treaty.

### ***The Permanent President: An Autonomous Political Actor?***

In the previous section we examined two interrelated questions about the scope and modality of change with regard to the institutional design of the EU Presidency system. This section addresses a critical question about the potential of the new actor(s) to provide substantial political entrepreneurship in the EU negotiating order. Very much like the founding Treaties that made no elaborated references to the Presidency system, the Constitutional Treaty contains quite vague provisions with regard to the Presidency. This vagueness should be partly attributed to the nature of the Constitutional document as an incomplete contract and partly to the member states' intention to ensure IGC agreement. Due to this vagueness, it remains unclear what exact format the rotating Presidency tier will have (although the attached Declaration at the end of the Constitutional Treaty does provide draft arrangements) and perhaps more importantly how the innovative features of the system (permanent President and Minister of Foreign Affairs) will perform.

### ***Problems of Delegation: Agency Losses and Control Mechanisms***

We propose to conceptualize the Presidency system under the Constitutional Treaty through a principal-agent framework. Thus the main motivations behind power delegation and agent formation are: to resolve commitment problems given underlying collective action impediments; to overcome information asymmetries in political and technical areas of governance and to enhance

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President will be more sensitive to the positions of the big countries, thus violating the norms of neutrality and impartiality. The often violated neutrality norm in the old system was at least compensated by the rotation element that, first, did not allow any office holder to make too heavy an impact on the integration process and, second, gave all member states an opportunity to play this role and take advantage of the Presidency's privileged position.

rule-making efficiency; and finally to reduce the political cost associated with unpopular policies and decisions (Thatcher and Stone Sweet 2002: 4). Principals and agents enter a contractual agreement, in which principals delegate certain functions to the agents in expectation that the latter will deliver the desirable outcomes and enhance the principals' prosperity. The underlying motivation is to fill in the details of the –inherently incomplete—constituent contract that outlines the terms of the principals' interaction (Tallberg 2002a: 25-26; Pollack 1997: 102-105, etc). In the EU framework, delegating power to the supranational agents was deemed appropriate primarily in order to monitor compliance with EC legal obligations, ensuring the commitment of member-states to the rules of the game (Moravcsik 1998: 485-489; Garret 1992). It has also taken place to provide a backbone to Treaty provisions that only sketched out broad policy directions, thus enhancing the efficiency of the EU policy-making process (Tallberg 2002a: 26-27; Pollack 1997:105-106). Finally, it has offered the member-state governments extensive scope for blame shifting not only with regard to policy failures but also in cases of painful but necessary decisions (Smith 1997).

However, the setting up of an agent constitutes in itself a contractual agreement, which is –to one or another extent—incomplete. Hence, in the fulfillment of their tasks, the agents enjoy a zone of discretion defined by the sum of delegated powers minus the sum of the *ex post* or *ex ante* control mechanisms put in place by the principles to control the agent's actions (Thatcher and Stone Sweet 2002: 5; Calvert et al., 1989: 589; etc). The nature and strictness of these control mechanisms depend on the purpose of delegation. If principals create an agent in order to realize pre-determined and quite specific objectives, then the distribution of policy preferences among principals at the time of the delegation will determine *ex ante* the exact scope of agent discretion. In contrast, in cases of high level of uncertainty, rapid change or the existence of several policy alternatives along the Pareto line, effective *ex post* controls will be better suited to deal with 'agency losses' (Thatcher and Stone Sweet 2002: 5; Elster 2000).

These control mechanisms put in place to constrain the agent's autonomous action can be either formal or informal in nature. Formal constraints include mainly the institutional procedures that provide the formal basis of the agency and take the form of appointment, administrative and oversight procedures (Tallberg 2002b: 25-27; Kiewiet and McCubbins 1991). Agents with open-ended lifetime are less constrained than the ones subject to review at a pre-determined date. Appointment procedures that offer the possibility of re-election generate incentives for the agent to deliver. Administrative procedures, which further specify the agent's formal mandate, the instruments available at its disposal and the procedural rules of action, can follow the contractual agreement with which an agent is set in place and limit the scope of the agent's discretion. They are *ex ante*, non-coercive control mechanisms that induce agent compliance (McCubbins, Noll and Weingast 1987). Oversight procedures constitute means of *ex post* control, permitting the principal

to monitor the agent's activities and impose sanctions when the agent exceeds acceptable levels of autonomy. Informal constraints comprise basically the –most often implicit—norms associated with the principal-agent relationship imposing *ex ante* constraints to the agent's behavior. Most commonly met are the norms of efficiency (directly linked with the functional nature of the agent to deliver prosperity-enhancing solutions to the collective action problems), neutrality and impartiality,<sup>14</sup> with regard to the choice of options from the multitude available at the Pareto frontier (Tallberg 2002b: 29).

Controlling for ‘agency losses’ becomes more complicated in cases where principals are not unified but comprise a multitude of actors whose collective preferences about the agent's tasks and functions may change periodically (Thatcher and Stone Sweet 2002: 6). Collective principals<sup>15</sup> are vulnerable to the original collective action problems that the delegation aims to solve in the first place. In situations of such complexity, it becomes more difficult for collective principals to exercise efficient control over the agent because of the difficulties of the principals' constituent actors to reach an agreement among themselves about the accepted level of agent slippage (Kiewiet and McCubbins 1991). Hence, *ceteris paribus*, agency slippage tends to increase with the number of actors forming the collective principal, unless there is an *a priori* agreement among the principal's constituent actors to employ specific decision rules that induce a clear preference aggregation function of the group (Lyne and Tierney 2002).

### ***Addressing the Challenges of the Emerging Order: Presidency Functions in the post-Constitution EU***

The various functions of the rotating Presidency can be collapsed into four main categories: administration and coordination; agenda shaping; mediation; and Council representation internally and externally (Elgström 2003: 4-7; Tallberg 2003: 1; Schout 1998: 2; Kirchner 1992: 79-82; Wallace 1985). So far, political leadership has been either an implicit component of these functions or considered a parameter influencing the Presidency's effectiveness. We seek to bring this issue more prominently to the foreground. As was also argued by the reformist camp, political leadership could be no longer effectively provided by rotating Presidencies in the EU-25 systemic environment. Therefore the old format was incapable of continuing to perform the required tasks, putting the effectiveness of the whole system under question. In that respect, providing political

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<sup>14</sup> Neutrality refers to situations in which the activities of an agent have no impact on the *relative* distribution of payoffs among the principals. Impartiality refers to the lack of a particular bias or preference of the agent in favor of any of the principals (cf. Young 1972: 56).

<sup>15</sup> Note the difference between collective and multiple principals, the former suggesting a single contract of an agent with a principal composed of more than one actor whereby the latter implying an actor with more than one contracts with organizationally distinct principals.

leadership becomes the overarching function of the permanent Presidency in the new system in order to ensure performance of the other tasks.

The *administrative and coordinating* functions constitute the original functions of the Presidency, having been the least glamorous but most important ones at least in the early period of the rotating system (Wallace and Edwards 1976: 538). The Presidency had the overall responsibility for the smooth functioning of the numerous working groups, requiring a great deal of organizational skills and familiarization with the Community structure (Kirchner 1992: 79-80). Coping with such a task involved relying on the General Secretariat of the Council, the role of which in the integration process has remained under-explored but for a few notable exceptions (Beach 2004; Christiansen 2002). The early literature viewed the capacity of the rotating Presidency to have an impact on the EU agenda as rather limited (Dewost 1984: 31; Kirchner 1992: 80; Hayes-Renshaw and Wallace 1997: 146; etc). A broader notion of *agenda-shaping* was recently introduced, challenging the older perceptions and attributing a larger role to the rotating Presidency. Agenda shaping is meant to comprise, apart from agenda setting, agenda structuring and agenda exclusion (Tallberg 2003: 6-13).<sup>16</sup> The agenda-shaping function of the Presidency has been directly linked with the *mediation* function, managing conflicting preferences of member-states over policy outcomes (Metcalf 1998; Schout 1998). The main asset of the Presidency in performing this task has been a set of informational and procedural resources, namely privileged information about other member-state preferences, as well as control over the format and pace of negotiations (Tallberg 2004: 1003-1005). Finally, the rotating Presidency was attributed the task to *represent* the (European) Council both internally in its relations with the other EU institutions and externally in international fora (Kirchner 1992: 81-82). The representational function of the Presidency and the institutionalization of the external relations of the EU have developed in tandem, the latter enhancing the status of the former very much like in the early formative years of the Presidency office (Bengtsson 2003: 55; Wallace 1985: 3).

In the new system, these four tasks have been allocated to one or the other extent to the permanent President. To be more specific, the permanent President is entrusted with an overarching *coordinating* role, being called to "...ensure the preparation and continuity of the work of the European Council" (A. I-22). The permanent President shall act in cooperation with the Commission President and the rotating group of member states. Meeting this task suggests an even greater reliance of the President upon the General Secretariat resources to provide the necessary

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<sup>16</sup> Agenda setting refers to accelerating the decision-making pace on specific issues by tabling concrete proposals for action or developing new institutional practices that structure future co-operation on these specific issues. Agenda structuring highlights the Presidency potential to put certain issues on the EU political agenda in the first place or to alter existing policy prioritization. It becomes more important in milieus where there exists a temporal lag between the time an issue emerges and the time actual policy-making decisions are finally taken. Finally, agenda exclusion can

administrative back up. This development will bring this largely neglected body even more prominently to the foreground of the integration process. Problems of coordination might arise between the two Presidency tiers (three including the Minister of Foreign Affairs) affecting the overall organizational performance of the Presidency system. At the same time, the longer tenure in office of the permanent President will help him/her establish closer liaisons with the Commission and the EP, improving inter-institutional coordination. Serious turf competition with the Commission should not be expected to arise given that coordination/administration for most of the day-to-day Council business will remain under the rotating Presidency tier. With respect to *agenda shaping*, the permanent President does not have any Treaty-enshrined legal authority to initiate policy proposals. However, adhering to the broader conceptualization of agenda shaping, the President will enjoy some discretionary powers in this process, primarily by affecting policy prioritization and exclusion of agenda items. These discretionary powers are of particular importance especially in the EU-25 environment characterized by an expanded agenda, as member states strive to add own policy issues or to affect the prioritization of policies already in the policy-making pipeline. The longer tenure in office for the permanent President suggests greater continuity in agenda management.<sup>17</sup> The *mediating* function should be enhanced due to the prescribed neutrality of the permanent President that will appease member-state concerns about the capacity of the Presidency to act as a 'honest broker'. However, this function will be heavily constrained by the unanimity decision-making rule and the formal requirement of the permanent President to endeavor consensus within the European Council, a point to which we will return when discussing the endogenous parameters constraining the President's scope of action. *Representation* will most probably be the function most effectively performed by the permanent President in comparison with the rotating system. The President will convey increased authority externally, as the figure personifying the whole EU, and will project internationally an image of continuity and coherence that will finally address concerns about 'who speaks for Europe'. At the same time, the office entails a great deal of media exposure, which also generates a potential of public identification with the person in office and greater chances for pursuing a more autonomous role.

In most accounts of the EU Presidency functions, the issue of political leadership has been treated implicitly, although its significance for the growth in scope and authority of an international organization has been repeatedly stressed (Cox 1969: 205; Cox 1974; Schechter 1987: 197-198; Young 1991: 281). Leadership is understood as "...an asymmetrical relationship of influence in which one actor guides or directs the behavior of others toward a certain goal over a certain period of time" (Underdal 1994: 178). Formal leadership refers to formally established positions of

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occur either by stalling deliberation on a particular agenda item through instrumental use of the privileged control of decision-making procedures or by presenting impossible compromise proposals (Tallberg 2003: 6-13).

<sup>17</sup> The necessity to foster such continuity was recognized already in the rotating Presidency format. As a result, an agreement was reached at the European Council in Seville, in 2002, requesting two consecutive Presidencies to provide a joint action plan of their scheduled activities.

authority sanctioned by the principals to control an otherwise anarchical process (Smith 2002: 121), in contrast to informal leadership that can be exercised by any resource-endowed actor in an anarchical environment. Successful leadership does not follow a single pattern and is heavily context- and personality-dependent. It is exercised in accordance with the particular rules of interaction in any given institutional milieu, the limitations deriving from the constituent agreement on the setting of an international organization, and the personal traits of the occupant of the Chair (Schechter 1987; Burns 1978; Kille and Scully 2003). It can be of short- or medium-term nature depending on the period of time and the kind of issues handled by the Chair (Metcalf 1998: 414). Three analytically distinct forms of leadership come regularly into play in international interaction: structural, entrepreneurial, and intellectual leadership (Young, 1991). Structural leadership largely connotes the translation of structural, resource-based power into the form of bargaining leverage in negotiations. Entrepreneurial leadership refers to the framing of an issue in such a way as to facilitate integrative bargaining and to strike deals that would otherwise elude negotiating partners. Finally, intellectual leadership relies on the power of ideas to shape perspectives and orient the involved actors to certain outcome directions.

Prior to any discussion about the provision of political leadership in the EU by the Presidency, it is important to stress that the Presidency has been by no means the sole supplier of leadership. Both governmental and supranational entrepreneurs have been active in the EU negotiating order over the years. With respect to supranational actors, the Commission has enjoyed the title of the 'motor of integration' in the early years as well as in periods run by highly assertive and dynamic figures, who imbued the chairmanship and the institution more generally with greater degree of autonomy (Kille and Scully 2003: 176; for a different view Moravcsik 1999). For governmental actors, the six-month Presidency has been the most significant opportunity to exercise leadership and leave their distinctive stamp –to whichever extent that was feasible—on the European integration process. Although the rotating Presidency was instrumental in striking most negotiating deals, it suffered from the short duration of its term in office. Hence, although it could play a major leadership role on the daily agenda management, the rotating Presidency system did not allow the country holding the office to provide substantial medium-term leadership (Metcalf 1998: 414). In terms of the three analytical forms identified above, entrepreneurial leadership has been the form mostly exercised, while the exercise of structural leadership very much depended on the resources of the member-state holding the Presidency. On the other hand, the short duration of the rotating Presidency has rendered the provision of intellectual leadership almost impossible. Country-specific endowment (size, resources, political capital, etc) and the normative prescription for neutrality and impartiality while in office have been significant parameters affecting the exercise of structural and entrepreneurial leadership in the rotating Presidency system. |



The establishment of the permanent President has largely come as a response to increased demand for leadership in the EU-25 environment in order to avoid stalemate. In that respect, political leadership, which in the past was a basic parameter in molding the office, has been converted in the post-Constitution phase of European integration into an important function of the Presidency. The longer period in office is the crucial element that suggests a greater potential for the President to exercise leadership. Short-term service only allows the chair to become familiar with the environment upon which it is called to operate and de-motivates the holder of the chair from exhibiting strong political leadership especially on issues of high complexity. Insights from organizational studies suggest that frequent succession of a manager or delegation of a managerial authority to someone for a short term of tenure leads to poor performance of managerial duties. Frequent managerial change usually produces dysfunctional consequences within an organization (Hall 1996:148-158). In that respect, the two and a half years in office with the possibility for an extension to five, will offer the opportunity to the President for a medium-term, political leadership horizon, relieving the President from more narrow-focused requests for short-term leadership. In terms of leadership forms, the prevailing consensual ethos that is now formally enshrined in the Treaty provisions, points more towards an entrepreneurial leadership style facilitated by the capacity to build Pareto-enhancing package deals over the whole range of integration issue areas. Structural leadership should be somehow circumscribed by the resources available to the President—these will be discussed in the next section. What can constitute a potential path-breaking leadership contribution is the capacity during the President's term in office to introduce and establish conceptual blueprints framing future policy deliberation.

We have argued that the typology identifying four basic functions for the rotating Presidency system largely holds for the permanent President as well. Administration and coordination may be strained between the two different Presidency tiers but the longer-term tenure of the President suggests a better working relationship with the other institutional bodies. The permanent President will also enjoy some discretionary power in agenda shaping, deriving primarily from his/her privileged position in control of procedural policy-making mechanisms and his/her mediating skills. The mediating function should be better performed due to the assumed neutrality of the President that will facilitate agreement. The same holds for the representation function—both internally and internationally—due to the permanent President's greater authority to 'speak for Europe'. In these four functions, we have argued that an overarching fifth one should be added, namely the provision of political leadership, which will facilitate the performance of all other four functions.

### *A New Actor in Town? Presidential Resources and Parameters of Effectiveness*

When we discussed the reasons behind the transformation of the rotating Presidency system, our basic argument was that the changes in the EU systemic environment altered (some) member states' perceptions of the Presidency's efficiency frontier. Whereas in the past member states were more or less in accord about the rotating scheme's potentiality to perform effectively its functions, that was no longer the case in the deliberations preceding the drafting of the Constitution. Our contention is that the potential of the permanent President (and MFA) to solidify his/her status in the new order and develop into an influential institutional actor will largely depend on the successful fulfillment of his/her tasks and on his/her ability to bypass the control mechanisms devised by member states to monitor and check for the Presidency's action. Successful performance will depend on the available resources of the permanent President and the exogenous and endogenous parameters that may interfere in the performance of the tasks. Such an argument derives to a large extent from the functional conceptualization of the Presidency and is supported by the historical account presented earlier, which showed that the successful Presidency's response to the tasks requested by the Council contributed to the strengthening of the Presidency and the rise of its stature. However, the strengthening of the Presidency –if exceeding the limits acceptable by member-states—will be constrained by the normative and institutional parameters that prevent the agent (President) from running out of the principal's (member states) control. In this context we now move to examine the Presidency's resources and the parameters (systemic, personality-specific, normative and institutional) affecting efficient performance.

### *Presidency Resources*

With respect to effectiveness and efficiency, we need to consider the resources available for the President to perform the required functions (and draw comparisons with the rotating tier) and the parameters (exogenous and endogenous) that will influence the President's performance. To begin with the first, the permanent President's resources are primarily *informational* and *operational* (Moe and Howell 1999:138), linked with informational asymmetries, bureaucratic resources, and the capacity of the President to exercise coercion or reward certain behavior. Additional resources comprise the level of the President's *legitimacy* and *authority* as well as *socialization* resources (Metcalf 1998: 416-426).

*Information-based resources* constitute a very crucial asset to the fulfillment of the Presidential tasks and functions. It is the Chair's responsibility to collect and accordingly communicate selected information to establish the agreement zones among the interacting partners (Raiffa 1982: 108). Resorting to existing bureaucratic resources –with main reference the Council Secretariat that will take up the task to provide administrative support to the President—and procedural arrangements (capital tours, bilateral meetings at various levels etc), the EU President will get hold of privileged

preference information. Longer tenure in office should be expected to create economies of scale in the gathering and instrumental use of collected information.

Among *operational resources*, of greater importance for the EU President are the coercion and reward opportunities. In the rotating Presidency format, the most significant *coercive resource* has been the (not so often realized) threat to call a QMV vote wherever the unanimity rule did not apply. In that respect, coalition building capacity (Elgström et al. 2001) in the Council context was an important parameter for a successful Presidency in the rotating system to perform its mediating function and move negotiating outcomes beyond 'common denominator' options by coercing recalcitrant member states. In the new Constitutional order, such a possibility will be largely available only to the rotating tier of the Presidency at the technical Councils, with the European Council retaining the principle of unanimity unless it decides differently. However, in the context of unanimity decision-making in the European Council and given the repeated interactions taking place during the President's tenure, the President will be equipped with more "bullying power" towards any single outlier member state as compared to the six-month rotating Presidency. As a delimiting factor of the Presidency's coercive resources, the Constitutional Treaty provides that the President "...shall endeavour to facilitate cohesion and consensus within the European Council" (A.I-22). *Reward resources* entail the available to the President means (concessions, side-payments, etc) to produce Pareto-enhancing deals thus improving the attractiveness of a joint agreement (Carnevale, 1986). Although the Presidency cannot –strictly speaking—take the decision on such rewards, it can lead to the desired outcome by making instrumental use of its mediation and agenda-shaping powers (Tallberg, 2004 and 2003). The Constitutional Treaty does not seem to enhance significantly the reward resources of the Presidency, with a notable –indirect—exception, albeit one of far reaching consequences: the potential for effectively striking package agreements. The extended (compared to the previous six-month format) time horizon in the permanent President's tenure and the cross-disciplinarity of scope ensure an agenda continuity and potential issue linkages that multiply the chances of successfully negotiating complex package agreements.

With regard to the *legitimacy* and *authority* factors, the rotating Presidency format suffered from the underlying suspicion that the country holding the office may use it to promote own national objectives despite an at least rhetorical adherence to the principle of neutrality. In that respect, negotiating outcomes were always under the hovering doubt about whether they indeed represented optimal solutions or whether further shifts closer to the efficiency frontier were left unrealized due to negative distributional implications for the Chair. Hence, the Presidency carried the burden of convincing member states that its political objectives and actions were not nationally oriented (Metcalf 1998: 420). That needs no longer be the case given the presumed impartiality of the permanent President with respect to the interests of the member states. After all, that was one of the

main arguments in favor of establishing the permanent Presidency format (Hoffman, 2003). Hence, impartiality can substantially improve the legitimacy of Presidential action and facilitate the performance of the Presidential tasks. As far as authority is concerned, the provision that the permanent President of the European Council shall not hold a national office has been claimed to undermine his/her status and political authority, not matching the previous levels of authority brought to the Presidency by acting Prime Ministers or Heads of State (Hughes, 2003). This, however, should not necessarily be the case if the President comes from the league of former prime ministers or heads of state.

Finally, *socialization resources* entail the emergence of a common perspective through repeated social interaction of some longer duration. In international relations, it has been argued that such an interaction increases the likelihood of successful inter-state mediation (Wall and Lynn 1993: 173). In the case of the permanent President, the longer tenure in office (two and a half years renewable once, in comparison to the six-month rotating format) enhances substantially the chances of familiarization and *engrenage* with a particular style and mode of mediation. In turn, that will affect positively the performance of the Presidential tasks.

In a nutshell, the permanent President seems to be bestowed with greater resources compared to those at the disposal of the rotating Presidencies in terms of rewards, less so in terms of coercion. However, the longer tenure in office does suggest a significant increase in the socialization and information-based resources. In addition to that, relieved from doubts about his/her own neutrality and impartiality, the President will enjoy a greater legitimacy (but lower authority?) in his/her actions that will further enhance the President's potential to successfully pursue the office tasks.

#### *Exogenous and Endogenous Parameters*

Besides the availability of resources, successful performance will also depend on a set of (a) *exogenous* (i.e. environment-related) and (b) *endogenous* (i.e. Presidency-related) parameters.

(a) *Exogenous parameters* comprise both international and EU systemic developments that affect the President's resources (and in turn the capacity to perform the required tasks) and/or have an impact on the tasks themselves. Such international system related factors include general conditions of enmity or amity in the world, global threats (the 'War on Terror'), the status of transatlantic relations, humanitarian and other international (e.g. Iraq) crises, etc. Given that external EU representation is one of the main tasks of the President, developments (whether positive or negative) outside the EU milieu will have a significant impact on his/her status and profile and will affect the President's available resources (authority). At the same time, many of these developments

will trigger tensions among the EU partners, in particular in controversial cases like the recent Iraq crisis, thus rendering the President's functions much more difficult to execute.

EU systemic developments include the pace of integration, the EU political and economic environment and the decision-making system at European Council level. Starting from the latter, we pointed out earlier while discussing the President's coercive resources that broader use of QMV increases the powers of the Presidency. Therefore, the more the European Council departs from the unanimity principle, the more empowered the permanent President will become by having the discretionary power to call for a vote. However, such decisions to shift away from consensus building even at the top EU level suggest an integration-prone environment and at least some degree of adherence to more federalist visions. In such an acceleration of the integration pace, the EU President will have a catalytic role to play in orchestrating the overall procedure. The reverse will also hold true: periods of a downturn in the pace of integration, characterized by strong adversary macro-policy preferences, will negatively affect the capacity of the President to deliver upon his/her tasks. This is directly linked with the existing political and economic environment in EU countries, in the sense that in periods of public disillusionment and apathy or even antipathy for the EU venture, failing commitments by national governments to the objectives of integration, and cyclical problems in the European economy, the President will have a much more difficult mission to carry out. Again, an opposite set of macro-conditions will be conducive to a Presidency excelling in its performance and drawing the resulting credit for it. Domestic political or other national crises at least in the larger member-states might still create some difficulties in the execution of the permanent President's tasks. However, a major deficiency of the old rotating system has been significantly remedied, namely the possibility of the President-country subject to a domestic crisis to divert vital political resources from the exercise of the Presidency. Such unfortunate situation could continue to create problems in the rotating tier of the new system but the team element introduced in the draft Declaration annexed to the Constitutional Treaty may well offset such problems as well.

(b) As far as the *endogenous* set of parameters is concerned, there were distinctive differences between Presidencies in the old rotating system with respect to country-specific resources (political capital, disposition towards European integration, size, experience and socialization with European norms, etc) (Westlake 1995: 49-50; Kirchner 1992: 82-87 etc). On the analogy of that, the effectiveness and efficiency of the permanent President will depend on *personality-specific* and *institutional design-specific* characteristics as well as the *evolution of the norms* associated with the President's office.

*Personality-specific* parameters broadly relate to the beliefs, motives, decision style and interpersonal style of a political leader and take us well into the political psychology and behavior literature. Such characteristics interrelate to form a personal, behavioral orientation and a general way of responding to environmental challenges (Hermann 1980: 8-12). Further personal leadership qualities, like strategic vision, managerial and communicative skills, self-confidence, energy and endurance, mastery of technical and conceptual details, and overall intellect will also play a critical role in that respect (cf. Yuki 1981: 270; Bercovitch 1984). Hence, personality-specific attributes are bound to affect the President's performance to one direction or another.

*Institutional design-specific* characteristics, besides resorting to QMV for decision-making as discussed earlier, also refer to the mode of the Presidential selection and the way the control mechanisms, set in place to check for the President's actions, will operate. With regard to the former, the Constitutional Treaty allows for decision on the President's appointment to be taken by QMV. However, a consensual appointment will increase the President's legitimization and authority, thus strengthening the available resources.

As far as the control mechanisms are concerned, we have argued that setting up an agent is accompanied with the establishment of appropriate control mechanisms and an incentive structure to avoid 'agency losses'. The objective is to induce the agent to act in a manner consistent with the principal's expectations and ensure that the potential costs of the agent's over-assertiveness during the performance of their basic functions are checked. In the case of the permanent President, both *ex ante* and *ex post* control has been arranged applying formal and informal constraints. To start with, the President-agent has a specific lifetime of two and a half years. Offering the possibility for a single renewal of the tenure, EU member states have created a favorable incentive structure for the President to act in consistence with the prescribed requirements of the office. By an inverse logic, a second-term "lame duck" President may be set free from first-term constraints, keen towards a more "heroic" exercise of his/her duties, with an eye on personal historical legacy.

At the same time, *ex post* control has been also set in place with reference to the point of dismissal in case of an impediment or serious misconduct. This oversight procedure will be applied by use of qualified majority, thus addressing the weakness of a collective principal, which we have highlighted in the previous section. As a reminder, the relevant literature points to the fact that a collective principal is subject to the original collective action problems and faces problems in agreeing on acceptable levels of 'agency losses'. In that respect, the more the actors constituting a principal the more the opportunities of an agent exercising autonomous action, unless the actors comprising the principal agree *a priori* on specific decision-making rules. That is the case with the

dismissal of the permanent President, whereby member states have agreed on QMV to facilitate oversight control and minimize the President's chances for autonomous action.

Finally, *normative* parameters entail the adherence to the formal or informal norms associated with the Presidency. For example, the existing ethos of exhaustive consultation to reach consensual agreements, which has been actually articulated explicitly and enshrined formally in the Constitutional Treaty directing the permanent President towards seeking "cohesion and consensus", could operate as an impediment to the successful performance of the Presidency. A gradual erosion of this norm, that operates as an *ex ante* control mechanism to the President's behavior, can pave the way for the introduction of QMV even at European Council level decision-making with very important consequences for the Presidential role and performance. Such a development would expand the available resources of the President and allow him/her to adopt a more confrontational stance to the outlying member states. By the same token, a gradual erosion of the informal norms of efficiency and neutrality that presumably underlie the President's actions may have far reaching consequences for the performance of the Presidential functions.

A first tentative assessment of the new Presidency system in terms of available resources and the exogenous as well as endogenous parameters that will affect its effectiveness and efficiency, conveys an image of qualified yet unmistakable strengthening of the Presidential function. On resources, it is rather straightforward that the longer tenure of the permanent President—in comparison to the rotating format—will enhance socialization- and information-based resources as well as the capacity for package deals that need time and ripening conditions. In addition to that, the (presumed) neutrality of the permanent President will further his/her legitimacy especially if the President's appointment is decided consensually. We do not agree that the President's status will be undermined by the requirement for the President not to hold any national office during tenure. Actually a President unshackled from national-domestic electoral constraints will be much freer to develop a more autonomous political agenda for the EU. If the President originates from the league of former prime ministers and heads of state, as appears to be the case, status problems and authority in the eyes of the peers should not be of issue. Finally, coercion may gradually evolve into a significant additional resource if the integration pace accelerates and QMV expands as a decision-making rule at the European Council level as well.

However, the realization of the resource potential will depend on several parameters. The integration pace will be a crucial exogenous parameter in the shaping and actual status of the new post, especially in the early formative years, which are bound to influence future Presidential behavior and expectations. Other EU systemic or international developments may also have a

critical impact but the unpredictable nature of most of them renders difficult any prior assessment. With regard to endogenous parameters, the evolution of the permanent President status will also depend a lot on the personality-specific leadership qualities of the person holding the office, molding to a large extent the Presidential profile. Regarding the institutional parameters, the appointment and oversight procedures include a propitious incentive structure by offering the opportunity for re-appointment and potential sanctions by allowing for dismissal in cases of misconduct. To ensure meaningfulness of these control mechanisms, member states agreed on applying the QMV decision-making rule in choosing the President, aiming to avoid collective action impediments that constrain the action of a collective principal. As regards the normative dimension of the Presidency, previously implicit norms have now been institutionalized by being enshrined in the Constitutional Treaty, functioning as additional means to control for the President's 'agency losses'.

## ***Conclusions***

This paper has explored continuity and change in the EU Presidency system under the new Constitutional order. There is no doubt that the Constitution creates a new institutional actor; the question is whether and to what extent the President will potentially play an autonomous political role as well. Such assessment can of course only be tentative until we see how the new system operates in practice. It goes without saying, the whole discussion may turn out to be redundant should Constitution ratification fail.

The first set of arguments we have presented builds on the functional ability of the Presidency to fulfill specific tasks in the course of European integration. These tasks evolved over time without altering, however, member-state perceptions of the efficiency frontier of the rotating Presidency system. The new structural environment of the EU-25 has broken the common conceptualization of the Presidency's functions and the shared view concerning the rotating system's ability to perform these functions. The required changes suggested a significant overhaul of the old system to be dealt with only in a major IGC negotiating context, out of which the current hybrid Presidency system emerged as a compromise solution. We have used a 'principal-agent' framework to discuss the potential of the permanent President emerging as an autonomous political actor in the EU context. Realizing this potential will depend on the successful execution of the Presidential functions. We have examined these functions emphasizing the request for political leadership in the EU-25. Effective performance of the Presidential functions will be contingent on the permanent President's available resources, most of which are bound to be enhanced by the longer tenure and presumed neutrality of the President. However, the successful employment of these resources will depend on a



number of exogenous and endogenous parameters, comprising developments in the EU and international systemic environment, the personal attributes of the President, institutional-design specific characteristics and the norms associated with the office.

Taking a step back to grasp the full picture of the new system, it seems that the current state of affairs is rather conducive for the permanent President to consolidate his/her position in the emerging post-Constitution order. Hence, our analysis suggests an unmistakable though by no means unconditional strengthening of the Presidency's potential for an autonomous political role in the new EU constitutional architecture. In the EU-25, the great diversity of opinions and policy preferences will provide numerous opportunities for the President to exercise political leadership and drive forward the integration vehicle, thus enhancing his/her own political role in the system. It seems that this potential has not passed unnoticed by member states, especially the ones least enthusiastic about the appointment of a permanent President. This lack of consensus and the innovative (and therefore uncharted) nature of such an appointment have dictated elaborate control mechanisms to appease opposition, ensure compliance with the requirements of the office and decrease as much as possible the chances of having a new autonomous political actor in town. However, the effectiveness of these mechanisms remains to be seen, especially given the President's continuous visibility and identification with the EU in the public eye. Such public visibility will enhance the President's slack potential. Furthermore, given the vagueness of the Constitutional provisions regarding the President's status (the Constitution being an incomplete contract), the exact configuration of the President's power and autonomy will be largely determined by the interaction with the other EU institutions, not least the potential rivalry with the Commission. This could be particularly the case in areas of overlapping or underspecified authority and jurisdiction, e.g. global representation beyond foreign and security policy, and so on. The early formative years could be decisive for the exact position and role of the President in the EU architecture. In that respect it is critical to identify the right figure for the post, not least since appointment procedures allow for QMV.

<i>Functions</i>	<i>Effectiveness of President</i>
<i>Administration-Coordination</i>	<p>Overarching coordinating role;            Inter-institutional coordination improved due to approximation of tenure with that of Commission President and MEPs;            No serious turf competition with Commission expected;            Potential coordination problems with other tiers of Presidency system;            Heavy reliance on Secretariat General.</p>
<i>Agenda Shaping</i>	<p>No formal power available; important discretionary power deriving from policy prioritization and procedural control of negotiations; greater agenda continuity due to longer tenure in office.</p>
<i>Mediation</i>	<p>More effective due to neutrality and impartiality principles;            More effective due to longer tenure (for complex package deals that require persistency and ripening conditions);            Constraints from unanimity decision-making rule and (constitutionally enshrined) norms of “cohesion and consensus”.</p>
<i>Representation</i>	<p>More effective both externally (conveying image of continuity, projecting EU collective power) and internally (media exposure and public identification);            Possible problems with regard to external representation due to competition with Commission President in areas other than foreign and security policy (and Foreign Minister?).</p>
<i>Political Leadership</i>	<p>More effective in terms of medium-term leadership; longer tenure allows familiarization with issues and longer perspective; more probable an entrepreneurial style of leadership, less so for intellectual and structural.</p>
<i>Resources</i>	<i>Availability to President</i>
<i>Informational</i>	<p>Exploitation of information asymmetries with resort to existing bureaucratic resources (Council Secretariat) and procedural arrangements (bilateral meetings at various levels, capital tours, etc).</p>
<i>Operational:</i> <i>Coercion</i>	<p>Minimal coercion power due to unanimity decision-making rule and norm of consensus seeking; however, longer tenure increases “bullying power” potential of the President.</p>
<i>Reward</i>	<p>Reward resources not available strictly speaking; but by instrumental use of agenda shaping and mediation functions, President in place to reward behaviors; longer tenure and cross-disciplinarity of agenda scope may facilitate complex package deals.</p>
<i>Legitimacy - Authority</i>	<p>Presumed impartiality of President enhances legitimacy;            Questions about authority given that the President shall not be acting Prime Minister or Head of State.</p>
<i>Socialization</i>	<p>Longer tenure may facilitate familiarization with a particular Presidential style through repeated social interaction; <i>engrenage</i> effect.</p>

<i>Parameters</i>	<i>Impact on Performance</i>
<b><i>Exogenous</i></b>	
<i>International</i> (global developments; transatlantic relations; humanitarian crises and military imbroglios; etc)	In general significant impact: President responsible for EU external representation; such developments will affect Presidential profile;
<i>EU systemic</i> (pace of integration; EU political and economic environment; decision making system at European Council level)	Acceleration of integration and propitious political and economic environment conducive to more successful Presidency (and the reverse); Move away from unanimity, more success potential for President.
<b><i>Endogenous</i></b>	
<i>Personality-specific</i>	Beliefs, motives, leadership style; managerial skills, etc
<i>Institutional Design-specific:</i>	
Decision-making rule	Shifts towards QMV, more success potential.
Mode of President selection	Consensual selection (despite Treaty provisions for QMV) will enhance the President's legitimacy and authority.
Control Mechanisms (Incentives and Penalties)	Incentives: reappointment (inverse incentive structure under 'lame duck' second term); Penalties: dismissal (facilitated by use of QMV); According to how these structures will operate, the President will have more or less autonomy potential.
<i>Norm-related</i> (formal and informal norms)	Erosion of formal 'cohesion and consensus' norms may pave the way for QMV

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