

Who's the Boss?

Strategic Action Between National Parliaments and Governments Over Supranational Policy in the European Union¹

by

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Abstract: How do national parliaments regain some of their influence over policy areas that have been lost to the European Union? National parliaments influence policy as it travels “upstream” to the intergovernmental level or in the “downstream”² implementation process. This paper presents a model that demonstrates how national parliaments could strengthen their influence over European policy in the upstream stage by minimizing information asymmetries with their representative at the European level, the national government. The containment of agency losses in the upstream process is a necessary step toward regaining policy influence, but it is not sufficient. Downstream influence is also necessary. This paper uses principal-agent theory to explain why national parliaments establish European Affairs Committees (EAC) and illustrate EAC limitations. It presents a model for the strategic interaction between national parliaments and governments over European policy. The conclusion describes possible empirical tests of the model and gives suggestions for future research.

I. Introduction

During the Europeanization process, national parliaments have lost much of their legislative sovereignty. Policy areas that were formerly controlled by national parliaments have been appropriated by executives and moved to the European level. This erosion of authority is problematic for national parliaments because they are elected to represent their citizens. If they lack the authority to make decisions in key policy areas and even lack influence in the decision making process at the European level, then they may be unable to carry out their electoral mandate. Also, they could be punished in the electoral arena for implementing unpopular EU policies. How do national parliaments regain some of the power over policy areas of environment, health and safety, labor relations, and security that have been lost to the European

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² Upstream and downstream are useful terminologies for this concept, first used in this context by Wolfgang Muller in a 2002 grant application. Downstream was applied to the subsidiarity concept as early as December 2001 in *European Report*, Dec 5, 2001, p101.

Union? The goal of this paper is to explain the strategic interaction between national parliaments and the European Commission. There are two ways that national parliaments could ostensibly regain their influence over policy areas that have been claimed by the European Union. One option is to obtain *de jure* authority by gaining a formal role in the European policy making process. The other way is to obtain *de facto* power by influencing their governments to successfully pursue the national parliaments' policy goals in the Council of Ministers meetings. This paper presents a model that demonstrates how national parliaments could strengthen their *de facto* influence over European policy by minimizing information asymmetries with their representative at the European level, the national government. The containment of agency losses is a necessary step toward regaining policy influence, but it is not sufficient for national parliaments to re-establish authority. In this paper, I describe the institutional setting for national parliaments and their relationship with the European Union, and then I use principal-agent theory to explain why national parliaments establish European Affairs Committees (EAC). Next I explain the agency problems that are not overcome with EACs and present a model for the strategic interaction between national parliaments and governments over European policy. The conclusion describes some ways the model could be empirically tested and gives directions for future research.

II. Literature Review

The literature review will describe the problem of deparliamentarization, present a possible solution that national parliaments have implemented and explain its limitations. The problem is captured in the deparliamentarization thesis: European integration has caused national parliaments to lose policymaking power. A counterargument could claim that this power transfer is part of a cyclical shift toward executives, but the deparliamentarization and democratic deficit schools say this power transfer is a direct result of European integration. One element that makes

it harder for national parliaments to influence policy decisions is the procedures of the Council of Ministers. Another is a coordination problem that can be described in terms of a principal-agent relationship. One solution to this situation has been for the national parliament to form a European Affairs Committee (EAC). All fifteen member states of the European Union have an EAC, but they do not all use them in the same way or give them a similar level of power. So what is the point of having an EAC? One way to explain this is to use principal-agent theory to say that EACs are established to decrease information asymmetries between principal (national parliament) and agent (government). Another purpose could be to present the government with the preferences of the national parliament or as a deterrent to prevent governments from defecting from the parliamentary mandate. A final possible purpose for an EAC could be as a decoy to give the appearance of government accountability to the parliament without trying to actually hold the government accountable

A. The problem: Deparliamentarization

According to the democratic deficit literature, European integration has caused national parliaments to lose power relative to their executives. The deparliamentarization thesis claims that there is a negative relationship between integration and the policy influence of national parliaments (Norton 1996a, b; Raunio and Hix 2000). There are two reasons for this. First, national parliaments have no formal role in the European Union treaties. Second, since the Single European Act (SEA) of 1987, European integration has meant encroachment into policy territory that was formerly controlled by national parliaments. Some examples of these policy areas are the environment, health and safety at work, and labor relations (Norton 1996b, 5; Pinder 2001, 95-96). The Maastricht and Amsterdam treaties added immigration policy, employment policy, cross-border crime (terrorism, drugs, fraud, crimes against children, money laundering, “cyber-crime”), external border controls, some education, consumer affairs, transport, development aid, asylum, and immigration (Pinder 2001, 98, 104, 107). Before the Single European Act (SEA), all

decisions in the Council of Ministers were handled intragovernmentally with a unanimity decision rule, which gives each government a mutual veto. The SEA established a qualified majority voting (QMV) rule in the Council of Ministers for some single market legislation. A few years later in 1992, the Maastricht treaty expanded QMV to cover all of the single market policy and set up two new policy pillars. The second pillar is the Common Foreign and Security Policy and the third pillar was called Justice and Home Affairs. The name of the third pillar was changed to Police and Judicial Cooperation in Criminal Matters by the Amsterdam treaty in 1999 (Pinder 2001, 28). A positive development for parliaments came in a provision of the Amsterdam treaty, which required that national parliaments get a minimum of six weeks to debate a policy before it is decided by the Council of Ministers (Bergman 2000; Raunio and Wiberg 2000). This provision improves the possibility of effective monitoring by giving national parliaments time to translate documents, read them and form opinions on them.

Scholars seem to agree that parliaments have lost power as a direct consequence of European integration. A counterargument could claim that it's a cyclical shift from legislatures to executives, caused by forces other than integration, such as modernization, globalization, or the increasing technicality of legislation (described in Hix and Raunio 2000). Those that favor integration as the culprit point to the secretiveness and the evasive decision procedures of the Council of Ministers (Norton 1996; Smith 1996). While the Commission has claimed agenda-setting power through its monopoly over the legislation proposal function, the national governments have collectively gained an enormous amount of influence over European-level policy outcomes through participation in the Council of Ministers and reliance on the bureaucracy (Wessels and Rometsch 1996, 329 and 362). Because it was executives who negotiated the EU treaties to exclude national parliaments, a conspiracy theorist might argue that a deliberate attempt was made to neuter national parliaments and pool power in the hands of executives.

A less pessimistic argument might claim that executives are opportunistically taking advantage of a coordination problem. There are many members of parliament and they are busy with many tasks. It is too difficult for the general body of MPs to closely monitor the actions of government ministers at the European level. Faced with an inattentive principal, the government is able to engage in agency slack by pursuing policies that do not maximize the utility of the national parliament's backbenchers.

A third possible argument is that information asymmetries make some policy drift inevitable. Principal-agent theory uses the concept of information asymmetry to show that when principals delegate to agents, the agents tend to obtain information that is unavailable to the principal. This theory can be applied to the relationship between governments and national parliaments. Through their roles in the Council, governments have information that is less available to national parliaments. A list of some of the information that governments possess that national parliaments would not be able to obtain on their own includes the following: the positions of other governments on specific issues, which issues are most salient in the Council of Ministers, and which ministers from each country are easiest to bargain with. In addition, each government knows about issues earlier in the decision-making process than the national parliament does and governments have a larger capacity to process available information because of their access to the bureaucracies. The implication of this information asymmetry is that national parliaments have a more difficult job of identifying the important issues that come up in the Council. When it takes longer for national parliaments to obtain (and sometimes translate) European documents, then they are slower and less effective monitors of their agent (government) in its handling of European policy decisions. Also, if a national parliament did manage to obtain all the relevant documents for pending legislation, it still wouldn't know which issues are most important and which are tangential. It also wouldn't know which bargaining chips to use with the ministers from other countries. National parliaments must trust the

government to reveal the most important information that would be most interesting to the parliament. Because the Council meetings are closed to the public, the government also engages in hidden action. This means that the parliament, even if it is monitoring *ex ante* and *ex post*, can't observe what the government really does in Council meetings. Does the government vigorously defend the national parliament's perspective or do they merely sweep issues under the rug or abstain altogether on discussion of an issue that is important to the national parliament? There has been a call for greater transparency, but the Council is still working out the details of which information should be available and to whom (Hayes-Renshaw and Wallace 1997). In the meantime, national parliaments need to find a way to hold their government accountable for its behavior at the European level. It should be noted that even though Council voting is behind closed doors, it might not be all that difficult to find out who voted how. Parliaments could acquire this information by pooling their knowledge with that of other countries' EACs and comparing the various reports from all the member governments. Another tactic might be to find someone with access to the Council meetings and a personal incentive to divulge information.

B. The Solution: European Affairs Committees

Philip Norton (1996a) claims that national parliaments are faced with two possible reactions to being written out of the EU treaties. The first option is to accept their excluded status and the second option is to fight it by seeking institutional change that gives the national parliaments influence over European affairs. For clarity's sake, I will call the two responses acceptance and engagement.

At first, parliaments generally chose the first response, *acceptance*. Early European integration only applied to foreign policy, which was in the executive policy domain, so national parliaments did not anticipate that European integration would interfere with their legislative sovereignty. National parliaments were confident that they would continue to exercise policy-

making power over domestic issues and they would leave European-level policy to the European institutions (Norton 1996a).

This acceptant response persisted until the mid-1980s when a shift occurred toward the second response of *engagement*. According to Norton, the motivation for this shift was the Single European Act (SEA) of 1987. The SEA extended the policy areas of the EU to include policy areas of “environment, health and safety, and economic and social cohesion” (Norton 1996a, 24) that were previously handled by national parliaments. The SEA also changed the decision rule for Single European legislation from unanimity to qualified majority, which further shifted the policy-making power from domestic political institutions to supranational political institutions. Parliaments responded to their loss of policy-making ability by establishing European Affairs Committees (EAC) that scrutinize the development of European policy (Norton 1996a, 23-24). One question is whether national parliaments can credibly commit to punish the government if they see it defecting. The answer is that parliaments have a narrow range of punishment options. There is the blunt instrument of a confidence vote, but this is a drastic measure and threatens the security of the backbenchers, too. There are smaller punishments, too, ranging from direct criticism of the government’s EU policy in the media, anonymous leaks to the media about the government’s EU policy, or non-cooperation with government bills in other policy areas.³ Raunio and Hix find that “while the executive branch – the Prime Minister, individual cabinet ministers, regulatory agencies, and bureaucrats – has strengthened its leverage in agenda-setting, policy preparation and implementation, the parliaments have also improved their position through more effective overall scrutiny of government, particularly better access to information” (2000, 142).

³ The option of criticism in the media was mentioned by Hans Hegeland, staff member for Sweden’s EU-Namden (EAC); interview June 25 2001; Stockholm, Sweden

All fifteen of the member state parliaments have EACs, but not all of them use EACs to the same degree or in the same way. At one extreme is the Danish EAC which gives the government an ex ante ratification for the policies it is allowed to pursue in Council of Ministers meetings. If the government strays from its marching orders, it will be penalized by the national parliament. At the other extreme is the EAC in Greece, which concentrates on information exchange, rather than accountability, and doesn't even meet regularly (Raunio and Wiberg 2000; Bergman 2000). This variation in the use of EACs leads us to the question of why EACs are established.

C. Why EACs?

The goal of the EACs could be to influence European policy by monitoring the government's actions in the Council of Ministers meetings. Other purposes could be to reduce information asymmetries through monitoring, to serve as a commitment device to help agreements stick, or to serve as a decoy.

If the goal of EACs is to monitor the government's actions in the Council of Ministers, then this strategy proved problematic because Council of Ministers meetings are closed to the public. For Pillars 2 and 3, where the voting rules require unanimity, EACs can see whether or not the government obeys with a request to veto a particular policy. It takes only one government to veto a policy with a unanimity rule, so if a policy passes the Council of Ministers that should have been vetoed, the national parliament will know that the government did not comply with its request. The 1987 SEA made it less likely that a single national parliament could use their government to force a veto in the Council of Ministers by replacing the unanimity rule with qualified majority voting for policies in the first pillar (Pinder 2001, 37). Under a unanimity rule, parliaments could have derailed a particular policy or at least forced the policy to be modified simply by convincing their government to veto that policy. Qualified majority voting enables governments to complain to their parliaments that the other governments in the Council of

Ministers tie their hands. Even if a government obediently votes against a policy that's unpopular with its parliament, the policy might still take effect because other governments vote in favor of that policy. Nonetheless, a monitoring device could still be a useful deterrence to prevent the government from shirking or defecting from the parliamentary mandate. Even though the government's actions in the Council of Ministers are not completely visible to the EAC, the fact that someone is scrutinizing any available information is likely to inspire government ministers to be careful about taking unpopular positions.

According to Raunio and Hix (2000), national parliaments establish EACs in an effort to counteract information asymmetry. The authors borrow Keith Krehbiel's (1992) distinction between distributive and informational committees to describe EACs as informational committees that are born out of a mutual desire among a group of MPs to specialize in order to overcome information asymmetries. EACs are limited in their effectiveness by a qualified majority voting rule in the Council of Ministers and the secretiveness of Council meetings. For this reason, national parliaments are simultaneously using EACs and bargaining with the European Commission to gain a formal role in the European Union's constitution.

Another argument sees EACs as a commitment device. Lisa Martin (1997) examines the role of EACs in national parliaments and finds that they can enhance the credibility of states' commitments to the European Union. Involvement of national parliaments slows and complicates the decision-making process, but they can guarantee that agreements won't unravel ex post when they are submitted to legislative ratification or implementation. Martin focuses on the mutual goals of legislatures and executives for international cooperation that balances the competition between the two branches. Rather than illustrating how EACs prevent agreements from unraveling, her case study of the European Union appears to show more that an EAC with a strong ex ante voice can speed up the implementation process in EU member states. Ratification is not an option for Council of Minister decisions on European legislation, but national

parliaments have been known to drag their feet for implementing directives or regulations. One of Martin's propositions is that "legislatures will institutionalize their participation in international cooperation when there is a greater conflict of interest between the executive and legislature" (1997, 19). This might account for the variation among member states in the degree to which they use their EACs.

A final possibility is that EACs serve as a decoy, meant to give the illusion of accountability without the reality. To my knowledge, no one has made this argument, but it is a possible motive. This argument would be more persuasive with regard to Greece than Denmark. Greece's EAC has not done very much to foster government accountability, but Denmark's EAC has been very strict. A national parliament that uses the EAC as a decoy would establish a European Affairs Committee, but either would not grant it enough power to be effective or would not use it. A decoy committee would meet rarely, would be populated by the least powerful members of parliament, would not attempt to give the government voting instructions and might even shield policy discussions from going to standing committees, thus preventing any real parliamentary discussion. A decoy committee would most likely be used to silence some of the critics of the democratic deficit, without enacting actual monitoring.

D. Principal Agent relationship

The decision on the part of national parliaments to establish EACs can be explained using principal agent theory. I will begin with a description of principal agent theory as it has been applied to parliamentary democracies. Next I will explain in principal agent terms why national parliaments would establish an EAC and describe some of the limitations of this type of committee.

Principal agent theory has been applied to parliamentary democracy in the literature. National parliaments select a government to represent them because national parliaments need an

agent to perform tasks that are too cumbersome for an assembly of several hundred elected officials to accomplish on their own. In selecting the government, the national parliament is a principal delegating authority to an agent. Governments are accountable to parliaments because they act on their principal's behalf and they can be penalized for shirking or rewarded for doing a good job (Fearon 1999). Agency problems are a pitfall of delegation.

“Agency losses take the form of *omission*, commonly known as “shirking”, when the agent simply fails to act in the best interest of the principal, or *commission* (sabotage), when the agent takes some positive action contrary to the will or interest of the principal. Agency problems are likely to be exacerbated under *hidden information* (principals do not fully know the competencies or preferences of their agents or the exact demands of the task at hand) or *hidden action* (principals cannot fully observe the actions of their agents). ... The problem of moral hazard ... arises when agents, once selected, have incentives and opportunity to take unobservable action that is contrary to the interest of the principal.” (Strom 2000, 270 - 271).

The principal-agent literature mentions “monitoring and reporting requirements” as one way to control agency problems (Kiewiet and McCubbins 1991, 27). EACs are one way for national parliaments to implement this strategy. When a principal monitors its agent, it requires the agent to hand over information that would normally be unavailable. National parliaments suffer from a serious asymmetric information problem when it comes to European affairs, so a mechanism for reducing these asymmetries would help national parliaments have a stronger influence on European-level policy.

Asymmetric information between principal and agent is a common situation. An agent might possess information that is unavailable to the principal or difficult to obtain. Agents also frequently engage in hidden action and have an incentive to report selectively on this action in order to gain the greatest personal benefit from it (Kiewiet and McCubbins 1991). This common feature of principal agent situations can be applied to the relationship between parliaments and governments. Through their participation in the Council of Ministers, governments have access to information that is unavailable to parliaments. Also, since the Council meetings are closed to

the public, parliaments cannot observe the behavior of the government when it represents them in the Council. All that parliaments know about the discussions in the Council of Ministers is what the ministers themselves choose to reveal.

European Affairs Committees attempt to hold governments accountable for their behavior in the Council of Ministers. They acquire as much information as possible about current issues in European affairs and require governments to report on their negotiations with other European governments. The strongest EACs frequently authorize governments to take a certain position before going into a Council meeting and occasionally require the government to consult before changing its position.

There is some evidence for interest incompatibility between governments and national parliaments. Drawing from the democratic deficit literature, national parliaments have lost policy influence and legislative power as a direct result of European integration. For this reason, it would make sense to assume that national parliaments as a whole would prefer the status quo to deeper integration. The European Commission, which has the agenda setting capability at the EU level, naturally prefers deepening integration to the status quo. It follows that the Commission would prefer for this process to be faster rather than slower. Governments are caught in the middle between these two demands. Governments are included in a very powerful policy-making body for the EU, so they have a stake in the success and further development of European integration. On the other hand, governments are agents of parliaments and must feel a pull to faithfully represent the status quo preference of their own parliaments. If governments exhibit too much agency slack, they are likely to be punished by parliament. As explained above, parliaments have a range of options for punishing government defections. The most extreme form of punishment is a confidence vote, but noncooperation on other issues and criticism in the media are also possible instruments. Some would argue against the possibility of interest incompatibility between national parliaments and governments because in Europe's

parliamentary democracies the executive is chosen by the legislature. If the executive loses the confidence of the legislature, the government can be sacked. A key element to consider is that there are multiple policy dimensions. A government might be a perfect reflection of the median legislator's preferences on the left-right policy dimension and for this reason it might be nearly immune to a confidence vote. However, attitudes toward the European Union do not line up neatly with the left-right policy space. It would not be surprising for a government's preferences for European integration or European policies to conflict with the preferences of even a majority of members of the national parliament.

The advantage of the monitoring strategy is that EACs can help parliaments overcome their collective action problem to ensure that the government is being a faithful agent to them. By allowing some MPs to specialize in European issues, the national parliament can ensure that it has a mechanism for attempting to prevent the EU from making any moves that further undermine the sovereignty of the national parliament.

This strategy also has its drawbacks. Monitoring and reporting as a control-enhancing method can be time consuming and can distract principals and agents from more important tasks. Instead of requiring reports to include all relevant information, principals should specify requirements that reports be organized, summarized and classified into a condensed, meaningful explanation of activity and context. "Unfortunately, this is difficult to modulate; a principal can either be starving for information or, more often, drowning in a sea of it." (Kiewiet and McCubbins 1991, 31).

Another important drawback to requiring agents to report their activities to principals is the problem of "truthful revelation." Agents have an incentive to obscure the truth in their reports by interpreting events in a way that makes the agent look good or reporting events selectively. National parliaments face this problem because Council of Ministers meetings are closed door. National parliaments can only infer what happened in a meeting based on the reports of

government ministers from their own government and from media reports based on statements from government ministers in all of the other states.

EACs are a direct form of monitoring that fits the description of “police patrol” oversight found in McCubbins and Schwartz (1984). They demonstrate that direct, police patrol monitoring is extremely costly in terms of time and energy. The authors suggest that “fire alarms” can be less expensive and more effective than police patrol monitoring. An advantage to fire alarm oversight is that the legislature does not have to expend the resources necessary to scrutinize the day-to-day functioning of the agent being monitored. What a fire alarm mechanism needs is a third party whose interests would be violated if the agent slacked, because this is the external actor who pulls the fire alarm. A disadvantage of fire alarm oversight is related to timing—sometimes the alarm occurs too late to avoid an undesirable outcome. There are third parties whose interests are affected by the behavior of the government in the Council, but they are unlikely to know about a European policy during a time period when the situation is reversible. By the time the public knows about European legislation, it is too late for national parliaments to do very much, if anything, to change it. Because fire alarms tend to be pulled after the point of no return on a policy, they tend to be addressed by the European Court of Justice, not by national parliaments.

Knowing that fire alarm oversight has advantages over police patrol oversight leads one to ask why national parliaments would choose to use police patrol EACs instead of relying on third parties to pull a fire alarm. It is because ex post monitoring is not helpful for European-level policy making. Once a directive or regulation has been approved by the European Union, national parliaments are required to implement it. When EU laws are in the form of regulations, there is no opportunity for national parliaments to correct this legislation after it has worked its way through the EU’s policy process. Their only option is to anticipate problems and try to counter them through their government’s role in the Council of Ministers. If the EU laws are in

the form of a directive, then national parliaments can attempt to implement the directive in a way that minimizes damage, but there are two limitations. First, it is too late to change the intent of the directive once it has been handed down from the European Union level. Second, if the parliament strays too far from the original intent of the directive as they implement it or if they take too long to implement the directive, the European Commission could submit a case to the European Court of Justice in order to force the national parliament to comply.

III. Why the monitoring strategy is problematic

The monitoring strategy is not a cure-all for national parliaments. First, it is difficult for the national parliament to know whether or not the monitoring is effective. Second, even if monitoring is effective, it's not clear that it will be successful in influencing European policy in the direction preferred by the national parliament.

First, there's the problem of effectively monitoring hidden action. The national parliament can reduce information asymmetries, but this will not necessarily prevent agency slack. Since the Council of Ministers meetings are closed to the public, the government's actions in the Council are unobservable. This limits the ability of the national parliament to know whether or not the government is slacking.

At one time, parliaments could work around the hidden action by observing policy output. Back in the days of unanimous voting in the Council, a single government could veto a policy or force amendment by refusing to vote in favor of a certain policy. If a policy emerged from the EU that was directly contradictory to a national parliament's orders, then it would know that its government had not insisted on its policy preference.

With the qualified majority voting, though, a government can simply tell its national parliament that it was overruled by a majority of other governments. There is no way for the parliament to prove that a claim is false, without relying on hearsay from other governments'

reports to the media or to their own parliaments. Qualified majority voting allows governments to sidestep accountability in the European policy sphere.

The second problem concerns the success of monitoring. Qualified majority voting makes it much less likely that a single government can influence the Council's policy output. Even if a government is an obedient agent with perfectly aligned preferences, it still might not be able to achieve the policy outcome that would be preferred by its national parliament because it can be overruled by the other governments. The effectiveness of a single government in changing a policy to match its own (and its national parliament's) policy preferences depends on its policy location, relative to the other governments, more than on the vigor of its opposition to or advocacy of a particular policy or even absolute number of votes in the Council of Ministers (Hix 1999).

Despite these difficulties with monitoring, the de facto policy influence strategy still deserves modeling because this method of regaining policy influence has been employed to a greater or lesser extent by all of the EU member states. All fifteen of the member states have a European Affairs Committee, but they do not all use the EAC in the same way or to the same degree of monitoring (Bergman 1997).

IV. A model of the De Facto policy process

This model shows how a national parliament could increase the incentives of its government to cooperate with the national parliament's policy goals. The relationship between national parliaments and their governments in this situation fits the characteristics of a moral hazard model with hidden information. This model is non-cooperative because commitments are non-binding.

In order to capture the competing incentives for the executive and the legislative branches, I use the non-party model of executive-legislative relations reflected in the two-body

approach (for examples of other studies using this approach, see Lijphart 1984, 1992; Shugart and Carey 1992). The literature expresses concern that the two-body image is not a realistic view of the interactions between ministers and MPs in parliamentary systems, claiming that a political arena model or a market place model would be a more accurate illustration of parliamentary interaction among parties and among individual ministers and MPs (King 1976; Andeweg and Nijzink 1995). These criticisms are compelling, but for the purposes of this study it is preferable to view parliament as an institution and not as a political arena or marketplace. In this instance, the demand for parsimony outweighs the demand for details. An alternative method of measure preference differences between backbenchers and governments could be to examine distances between ideal policy points and the EU median. Simon Hix uses this policy distance explanation to explain varying levels of influence of governments in the Council of Ministers (1999). This could be incorporated into my model by specifying the policy distance from the EU median for the national parliament and the government. I would expect to find that national parliament's median to be generally farther from the EU median than the government's policy preference. As explained above, it would not be unreasonable to hypothesize that even a strongly supported government that accurately represents the national parliament's preferences on the left-right policy continuum could find itself out of step with the national parliament when it comes to its approach to the European Union. My model implicitly assumes that the government is more favorably inclined toward the European Union and Europeanization than the national parliament is.

The way for a national parliament to increase the incentives of its government to cooperate with the national parliament's policy goals is to establish a monitoring mechanism (i.e. a European Affairs Committee) to keep an eye on the government's behavior and its bargaining positions in the Council of Ministers. The strategic interaction between national parliaments and

governments can be illustrated in a moral hazard monitoring model with mixed strategies in a 2-by-2 simultaneous moves game.

		Government	
		Cooperate	Defect
National Parliament	Monitor	3, 3	2, 1
	Don't Monitor	4, 2	1, 4

The two actors in this game are a national parliament (NP) and its government (G). The national parliament chooses between using its EAC to monitor the government as it handles a particular piece of European policy (*monitor*) and trusting its government to take actions in line with the parliament's preferences (*don't monitor*). The government has the choice to commit agency slack to the extent that its preferences differ from the parliament's preferences (*defect*) or to keep its behavior in line with the preferences of the national parliament (*cooperate*).

Each actor chooses between a safe strategy that will produce a moderate payoff of 2 or 3 units and a risky strategy that could result in a higher (4) or lower (1) payoff, depending on what the other actor chooses. For each combination of pure strategies, there is another strategy that is better for one of the actors assuming that the other actor's strategy stays the same, so there is no Nash equilibrium. The likelihood that the government will cheat, if trusted, leads the national parliament to monitor. Once it's monitoring, it would be in the government's interest to obey. Once the government is obeying, though, the national parliament is tempted to stop paying monitoring costs and trust the government.

The most preferred outcome for the national parliament would be to trust the government (*don't monitor*) and for the government to cooperate. This combination of actions would result in a high payoff (4) for the national parliament because it doesn't have to pay the monitoring costs but it still gets the cooperation it wants from the government. The government has a moderate payoff for this result (2) because it is not going to incur the costs of being caught for defecting but it is not reaping the gains of maximizing its freedom of action or building trust with the national parliament by getting credit for cooperating.

The most preferred outcome for the government (and the least desirable outcome for the national parliament) is for the national parliament to trust it (*don't monitor*) and for the government to defect. The payoff for the national parliament is low (1) because it is suffering from agency slack without being able to punish the behavior, but the government reaches its highest possible payoff (4) because it is able to pursue exactly the policy it prefers without the consequences of getting caught.

The second choice for both actors is for the national parliament to monitor and the government to cooperate. Monitoring requires the national parliament to incur opportunity costs as it dedicates resources to scrutinizing the government. Because monitoring involves a cost, the payoff for successfully monitoring is in the high-moderate range (3). The government also gains a high-moderate payoff of 3 because it has sacrificed the freedom to pursue its most preferred policy, but it has managed to avoid the consequences of getting caught. Each time the government is monitored and found to be cooperating, it builds trust with the national parliament. This trust can be helpful in getting future EU treaties ratified (Hayes-Renshaw and Wallace 1997, 227) and can possibly translate into a lower probability of being monitored in the long run if this game is iterated.

One outcome that both actors would like to avoid is when the parliament monitors and catches the government defecting. It is costly for the parliament to follow through on threats of

punishment. Adding the costs of punishment to the pre-existing opportunity costs of monitoring leads to a payoff of (2). Even though following through on threats is costly, it is still less costly for the national parliament to catch the government defecting than it is to be deceived without knowing. Being caught defecting is the worst possible outcome for the government because it erodes the confidence of the national parliament and is likely to result in some bad press among the electorate. The payoff to the government for this outcome is (1).

As explained above, there is no pure strategy Nash equilibrium; therefore neither actor can decide which pure strategy would bring the best payoff. Another approach is to use mixed strategies to see if there is an equilibrium that corresponds to a probability range. A mixed strategy “maps each of a player’s possible information sets to a probability distribution over actions” (Rasmusen 2001, 66). This contrasts with a pure strategy, which maps information sets to one action. Rasmusen describes the difference between pure and mixed strategies by saying that a pure strategy “constitutes a rule that tells the player what action to choose, while a mixed strategy constitutes a rule that tells him what dice to throw in order to choose an action” (2001, 67).

The payoffs for the mixed strategies in this game are derived using an equation from Gates and Humes (1997, 27). The equations are the following:

Equation 1: ⁴

$$\begin{aligned} \text{Expected payoff to Player 1} = & \\ & \text{Prob(P1 chooses A)} * (\text{Prob(P2 chooses A)} * \text{Payoff(P1, \{A, A\})} + \\ & \text{Prob(P2 chooses B)} * \text{Payoff(P1, \{A, B\})}) + \\ & \text{Prob(P1 chooses B)} * (\text{Prob(P2 chooses A)} * \text{Payoff(P1, \{B, A\})} + \\ & \text{Prob(P2 chooses B)} * \text{Payoff(P1, \{B, B\})}) \end{aligned}$$

And

⁴ In a more explanatory format, Equation 1 looks like this: Expected payoff to Player 1 = [prob. of Player 1 choosing A *(prob. of Player 2 choosing A (payoff to Player 1 for {A, A}) + Prob. of Player 2 choosing B (Payoff to Player 1 for {A, B})) + {prob. of Player 1 choosing B (Prob. of Player 2 choosing A (Payoff to Player 1 for {B,A}) + Prob. of Player 2 choosing B (Payoff to Player 1 for {B, B}))]

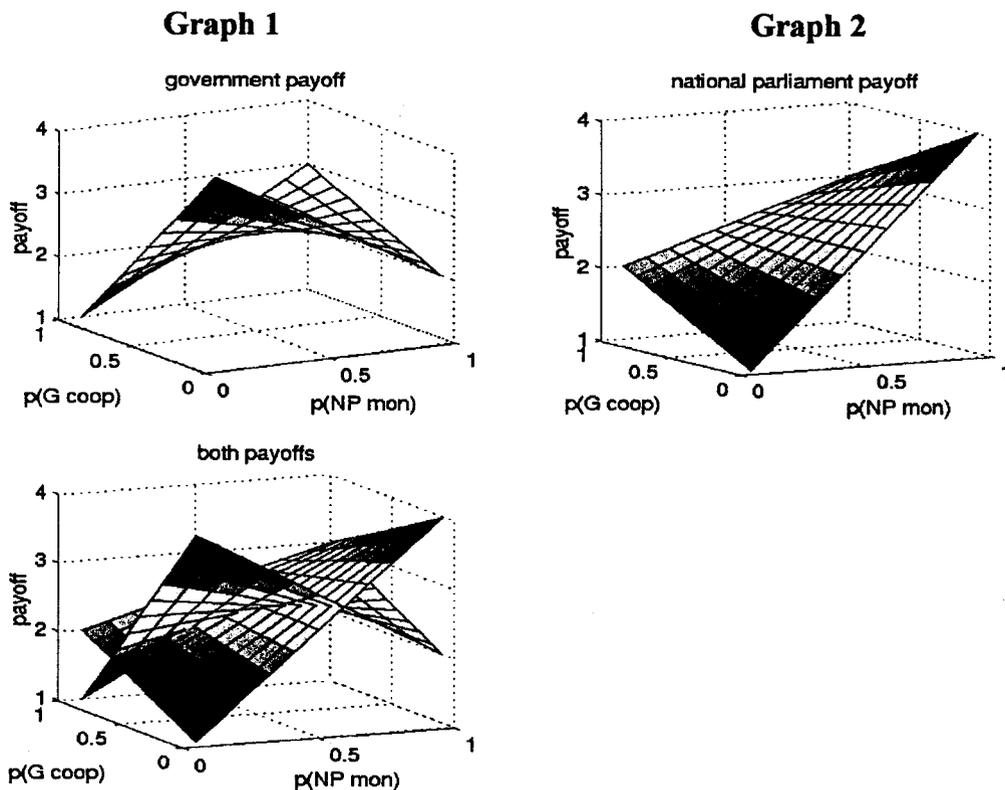
Equation 2:⁵

Expected payoff to Player 2 =

$$\begin{aligned} & \text{Prob(P2 chooses A)} * (\text{Prob(P1 chooses A)} * \text{Payoff(P2, \{A, A\})} + \\ & \quad \text{Prob(P1 chooses B)} * \text{Payoff(P2, \{B, A\})}) + \\ & \text{Prob(P2 chooses B)} * (\text{Prob(P1 chooses A)} * \text{Payoff(P2, \{A, B\})} + \\ & \quad \text{Prob(P1 chooses B)} * \text{Payoff(P2, \{B, B\})}) \end{aligned}$$

The expected payoffs for the whole range of possible probabilities can be found in Appendix 1.

Graphs 1 and 2 show the payoffs for each actor in three dimensions. Graph 1 is the three-dimensional payoff plane for the government. Graph 2 is the three-dimensional payoff plane for the national parliament. The X and Y axes show the probability that each actor will choose the risk-averse strategy. The Z axis shows the payoff to the actor for the combination of probabilities.



Graph 3

⁵ In a more explanatory format, Equation 2 looks like this: Expected payoff to Player 2 = [prob. of Player 2 choosing A (prob. of Player 1 choosing A (payoff to Player 2 for {A, A}) + Prob. of Player 1 choosing B (Payoff to Player 2 for {B, A})) + {prob. of Player 2 choosing B (Prob. of Player 1 choosing A (Payoff to Player 2 for {A,B}) + Prob. of Player 1 choosing B (Payoff to Player 2 for {B, B}))]

Graph 3 shows the planes for both actors combined onto the same graph. This graph makes it easier to see where the planes intersect and how they're related to each other. To see this graph from four different angles, see Appendix 2.

V. Results

Even with an actively scrutinizing EAC, the national parliament must choose its battles because resources are limited. Especially since national parliaments cannot rely on the bureaucracy to process the EU documents for them, EACs must focus their monitoring energies on the most important or most accessible European legislation and overlook most of the other European legislative proposals. For any given proposal, the government knows there is a certain probability that the EAC is not monitoring its action. The government has a choice of voting in the Council of Ministers according to the preferences of the National Parliament (cooperating) or it can take a risk by going along with the rest of the Council of Ministers on a particular policy without vigorously pursuing the policy that the national parliament would have preferred (defecting) and hoping not to get caught.

The risk calculation of the government will depend on the stability of the governing coalition. A government with a strong majority in parliament that has a firm grip on power might choose a more risk acceptant strategy than a government with a weaker mandate. A government that is in a position of strength might choose a more risk acceptant strategy, gambling that the EAC is likely to choose a confrontational monitoring strategy. A minority government or a government with a weak coalition might choose a risk-averse strategy to avoid the potential fallout of making decisions that could anger coalition partners.

All things being equal, once an EAC is in place it makes the most sense for the government to cooperate, regardless of whether the EAC is actively pursuing monitoring. It is less costly to cooperate with the EAC and obey its voting instructions (if it issues them) than to deal with getting caught defecting. This is especially true for the countries with strong and active

EACs which meet frequently, attempt to formulate voting instructions for the government and require the government to report on its behavior at Council of Ministers meetings. On the other hand, if the EAC is weak or non-existent, the government might be willing to choose a riskier strategy, reasoning that the committee is unlikely to even notice any defection if it does not meet on a regular basis or issue voting instructions and only requires some exchange of information between the committee and the government.

For the numerical payoffs for the mixed strategies, see Appendix 1. Table 1 shows the payoffs to the national parliament, Table 2 shows the payoffs to the government, and Table 3 shows the combined payoffs. There are several points of intersection for the payoffs. When the probability of choosing to monitor is zero for the national parliament and the probability of cooperating is .6 for the government, then the payoff is 2.8 for each actor.

If prob. NP = 0 and prob. G = .6, then payoff = 2.8

When the probabilities are 50-50 for both actors, there is a mutual payoff of 2.5 for both players.

If prob. NP = .5 and prob. G = .5, then payoff = 2.5

Finally, when both actors choose a pure risk-averse strategy, the payoff is 3.

If prob. NP = 1 and prob. G = 1, then payoff = 3

This is the highest possible mutual payoff. It is at this combination of probabilities that gives the highest reward for risk aversion. If both actors maximize their minimum possible payoff, they reach their maximin strategies, which will lead to a mutual payoff of 3, with the EAC monitoring and the government cooperating.

VI. Conclusion/Future Research

In conclusion, the most logical outcome is for the national parliament to monitor and the government to cooperate, but in real life it's not uncommon to see miscalculations and decisions that appear surprising. If an EAC appears to be in place mostly for decoration and does not

engage in serious monitoring, the likelihood that the government will defect is higher. This paper's game reveals that EACs are useful devices for deterring governments from defecting because they introduce an element of uncertainty. Without an EAC, a government can be pretty confident that the backbenchers in the national parliament are too absorbed with domestic political concerns to pay attention to its behavior at the European level. With an EAC, the government knows there are a few highly motivated members of parliament actively scrutinizing documentation from the European level of policymaking and the risks associated with defecting increase.

In spite of the deterrent nature of EACs, the committee itself is not sufficient for regaining policy influence. It is also necessary for a national parliament to take full advantage of the opportunity to shape European policies on their way downstream during the national implementation period. When policies have slipped through the cracks in the upstream process, the national parliament will still have an opportunity to implement damage control in the downstream part of the European Union legislative process.

There are many ways to extend and test this model for future research. To test the model, it would be necessary to determine the probability of a risk-averse strategy of monitoring and cooperating. There are two ways to do this; the first is issue-based and the second is actor-based. There are three potential hypotheses for the issue-based approach. One makes a distinction between types of issues based on the voting rule under which they fall, the second makes a distinction based on the issue saliency, and the third pays attention to ideal points along the policy space. I have derived three possible hypotheses for testing the model.

H₁: National parliaments are more likely to monitor for intergovernmental issues that use a unanimity voting rule than for supranational issues that use a qualified majority voting rule.

Hypothesis 1 is stating that national parliaments choose their battles based on likelihood of effectiveness. The monitoring mechanism is more likely to be effective with a unanimity voting rule in the Council of Ministers than under QMV, therefore national parliaments will focus their resources on monitoring the issues that they can affect and cut their losses on supranational issues.

H₂: National parliaments are more likely to monitor for the most salient issues and ignore issues that are more routine.

Hypothesis 2 is stating that national parliaments choose their battles based on the most important issues, regardless of the voting rule that the particular issue falls under. If this hypothesis is true, for example, then I would expect to see France's EAC monitoring the progress of the agriculture minister much more closely than the negotiations of the environmental minister. These hypotheses could be tested in future research.

H₃: If the national parliament's ideal policy is closer to (farther from) the EU median than the government's ideal policy, then the national parliament will have a lower (higher) probability of monitoring.

For hypothesis 3, I draw on Simon Hix's policy distance explanation, which he uses to account for varying levels of influence of governments in the Council of Ministers (1999). I incorporate this into my model by specifying the policy distance from the EU median for the national parliament and the government. I expect to find that national parliament's median to be generally farther from the EU median than the government's policy preference for most policies. If the national parliament is closer to the EU median than the government is, then I do not expect to find the national parliament monitoring its government. The national parliament would trust the other governments in the Council of Ministers to drag the policy closer to its ideal point.

For the actor-based tests, it would be necessary to determine the probability that the government would choose a risk-averse or risk-acceptant strategy based on the strength of the

European Affairs Committee. The strongest EACs, like the one in Denmark, will be a very strong deterrent to governments and will most likely result in the cooperate/monitor outcome with a mutual payoff of 3. The weakest EACs, like the one in Greece, are more likely to be a weak deterrent to the government. For these countries, it would be more likely to see the government defecting and the national parliament not noticing.

Another possible extension of the model could be to apply the intra-party aspects of parliament (See Andeweg and Nijzink 1995 for a detailed description). It would show the variation in strategies depending on the party composition of the EAC as compared to the parties composing the government. It would not be surprising if Euroskeptic parties attempted to capture their country's EACs in order to hinder European integration. Alternatively, opposition parties might try to capture the EAC in order to get their views stamped onto the government's bargaining position in the Council or to gather information on the government's behavior to use in the next election. In situations where EACs have been dominated by the governing party or parties, I would not expect the EAC to be an accountability tool, but rather a tool for helping government ministers do their homework before Council meetings or possibly a decoy to give the impression of accountability without exercising any real oversight. If EACs are used as an accountability tool in the case where the governing party dominates the committee, it would not be a way for the backbenchers in the national parliament to keep an eye on the government but it would be a way for the governing party to make sure that the individual government ministers do not diverge from the party's policy platform or from the coalition agreement.

My model illustrates a strategy that national parliaments use and that probably helps a bit, but not enough. It is highly likely that national parliaments will continue to work on monitoring their own governments, but also pursue some kind of formal role in the European policy process. As the EU works to write its constitution this year, it will be interesting to see what the future role of national parliaments will be, and who will be the boss.

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Appendix 1: Payoffs to the actors across the probability distribution for mixed strategies

Table 1: Payoffs to National Parliament

NP probability of monitoring	G probability of cooperating										
	0%	10%	20%	30%	40%	50%	60%	70%	80%	90%	100%
0%	1	1.3	1.6	1.9	2.2	2.5	2.8	3.1	3.4	3.7	4
10%	1.1	1.38	1.66	1.94	2.22	2.5	2.78	3.06	3.34	3.62	3.9
20%	1.2	1.46	1.72	1.98	2.24	2.5	2.76	3.02	3.28	3.54	3.8
30%	1.3	1.54	1.78	2.02	2.26	2.5	2.74	2.98	3.22	3.46	3.7
40%	1.4	1.62	1.84	2.06	2.28	2.5	2.72	2.94	3.16	3.38	3.6
50%	1.5	1.7	1.9	2.1	2.3	2.5	2.7	2.9	3.1	3.3	3.5
60%	1.6	1.78	1.96	2.14	2.32	2.5	2.68	2.86	3.04	3.22	3.4
70%	1.7	1.86	2.02	2.18	2.34	2.5	2.66	2.82	2.98	3.14	3.3
80%	1.8	1.94	2.08	2.22	2.36	2.5	2.64	2.78	2.92	3.06	3.2
90%	1.9	2.02	2.14	2.26	2.38	2.5	2.62	2.74	2.86	2.98	3.1
100%	2	2.1	2.2	2.3	2.4	2.5	2.6	2.7	2.8	2.9	3

Table 2: Payoffs to Government

NP probability of monitoring	G probability of cooperating										
	0%	10%	20%	30%	40%	50%	60%	70%	80%	90%	100%
0%	4	3.8	3.6	3.4	3.2	3	2.8	2.6	2.4	2.2	2
10%	3.7	3.54	3.38	3.22	3.06	2.9	2.74	2.58	2.42	2.26	2.1
20%	3.4	3.28	3.16	3.04	2.92	2.8	2.68	2.56	2.44	2.32	2.2
30%	3.1	3.02	2.94	2.86	2.78	2.7	2.62	2.54	2.46	2.38	2.3
40%	2.8	2.76	2.72	2.68	2.64	2.6	2.56	2.52	2.48	2.44	2.4
50%	2.5	2.5	2.5	2.5	2.5	2.5	2.5	2.5	2.5	2.5	2.5
60%	2.2	2.24	2.28	2.32	2.36	2.4	2.44	2.48	2.52	2.56	2.6
70%	1.9	1.98	2.06	2.14	2.22	2.3	2.38	2.46	2.54	2.62	2.7
80%	1.6	1.72	1.84	1.96	2.08	2.2	2.32	2.44	2.56	2.68	2.8
90%	1.3	1.46	1.62	1.78	1.94	2.1	2.26	2.42	2.58	2.74	2.9
100%	1	1.2	1.4	1.6	1.8	2	2.2	2.4	2.6	2.8	3

Table 3: Payoffs to National Parliament/Government

NP probability of monitoring	G probability of cooperating										
	0%	10%	20%	30%	40%	50%	60%	70%	80%	90%	100%
0%	1 / 4	1.3 / 3.8	1.6 / 3.6	1.9 / 3.4	2.2 / 3.2	2.5 / 3	2.8 / 2.8	3.1 / 2.6	3.4 / 2.4	3.7 / 2.2	4 / 2
10%	1.1 / 3.7	1.38 / 3.54	1.66 / 3.38	1.94 / 3.22	2.22 / 3.06	2.5 / 2.9	2.78 / 2.74	3.06 / 2.58	3.34 / 2.42	3.62 / 2.26	3.9 / 2.1
20%	1.2 / 3.4	1.46 / 3.28	1.72 / 3.16	1.98 / 3.04	2.24 / 2.92	2.5 / 2.8	2.76 / 2.68	3.02 / 2.56	3.28 / 2.44	3.54 / 2.32	3.8 / 2.2
30%	1.3 / 3.1	1.54 / 3.02	1.78 / 2.94	2.02 / 2.86	2.26 / 2.78	2.5 / 2.7	2.74 / 2.62	2.98 / 2.54	3.22 / 2.46	3.46 / 2.38	3.7 / 2.3
40%	1.4 / 2.8	1.62 / 2.76	1.84 / 2.72	2.06 / 2.68	2.28 / 2.64	2.5 / 2.6	2.72 / 2.56	2.94 / 2.52	3.16 / 2.48	3.38 / 2.44	3.6 / 2.4
50%	1.5 / 2.5	1.7 / 2.5	1.9 / 2.5	2.1 / 2.5	2.3 / 2.5	2.5 / 2.5	2.7 / 2.5	2.9 / 2.5	3.1 / 2.5	3.3 / 2.5	3.5 / 2.5
60%	1.6 / 2.2	1.78 / 2.24	1.96 / 2.28	2.14 / 2.32	2.32 / 2.36	2.5 / 2.4	2.68 / 2.44	2.86 / 2.48	3.04 / 2.52	3.22 / 2.56	3.4 / 2.6
70%	1.7 / 1.9	1.86 / 1.98	2.02 / 2.06	2.18 / 2.14	2.34 / 2.22	2.5 / 2.3	2.66 / 2.38	2.82 / 2.46	2.98 / 2.54	3.14 / 2.62	3.3 / 2.7
80%	1.8 / 1.6	1.94 / 1.72	2.08 / 1.84	2.22 / 1.96	2.36 / 2.08	2.5 / 2.2	2.64 / 2.32	2.78 / 2.44	2.92 / 2.56	3.06 / 2.68	3.2 / 2.8
90%	1.9 / 1.3	2.02 / 1.46	2.14 / 1.62	2.26 / 1.78	2.38 / 1.94	2.5 / 2.1	2.62 / 2.26	2.74 / 2.42	2.86 / 2.58	2.98 / 2.74	3.1 / 2.9
100%	2 / 1	2.1 / 1.2	2.2 / 1.4	2.3 / 1.6	2.4 / 1.8	2.5 / 2	2.6 / 2.2	2.7 / 2.4	2.8 / 2.6	2.9 / 2.8	3 / 3

Appendix 2: Graphing the payoff structure for mixed strategies

Combining the payoff structures for both actors on the same graph. From four different angles.

