

# Building a Consensus (Rule) for International Organizations

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30 September 2010<sup>†</sup>

## Abstract

Why do states occasionally select two different mechanisms to govern decision-making in international organizations (IOs), one that provides for formal voting and another in which decisions are taken through consensus? Almost all IOs have official voting rules described in their charter, but many times these organizations take decisions and generate outcomes in the absence of a vote. In this paper, I investigate the origins of consensus-based voting and how consensus procedures may be viewed in the presence of the official, de jure, voting rule, especially when states know that a particular policy will not come to an official vote. I argue that because the outcomes of organizational decisions have distributional implications for states, that state-actors will bargain in “the shadow of the vote” and that the official voting rule plays an important role in the decision to include consensus procedures. I test these claims empirically using an original data set of voting rules for international organizations.

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<sup>†</sup>All errors are the author’s.

## Introduction

One of the most visible mechanisms of control in international organizations is the procedure by which a particular IO takes decisions. The manner in which outcomes are produced via collective decision-making has remained the subject of intense debate in both policy and scholarly circles. There has been no shortage of calls for voting reform in organizations like the United Nations, the International Monetary Fund, the World Bank, and the European Union. Moreover, numerous studies have highlighted how the allocation of votes within certain organizations translates into voting power, or the ability of states or voting blocs to exert control over outcomes (c.f. Shapley & Shubik 1954, Banzhaff 1965, Dixon 1983, Strand & Rapkin 2005). In some organizations, states decide mutual policies by a formal voting rule as prescribed in the founding charter. However, in other cases, IOs maintain a hierarchy of voting rules, indicating that states should attempt to take decisions by consensus and then, failing consensus, they would move to a formal voting rule. The search for consensus in international organizations can be elusive, especially when issues divide important coalitions of states. The result is that official voting rules are rarely used in some IOs, whereas they are used extensively in others. Why do some organizations strive for consensus while others rely on the formal voting rule? Further, what factors determine whether an IO will have a codified consensus procedure, one that has been prescribed in the charter of the organization, or will this rule develop informally over time?

This paper investigates these questions and proposes that the decision to create consensus rules is a function of the *de jure* voting rule and the constellation of voting power within an organization. In short, states that are in the voting minority will advocate for consensus-based decision-making, regardless of their major power status. This formulation offers an explanation for a number of cases of IOs where there appears to be a disjuncture between formal voting rules and consensus decision-making. For example, the official voting rule of the World Trade Organization (WTO) is simple majority with each state casting only one vote. In practice, the WTO rarely takes decisions in this manner, opting instead for consensus. A number of other international organizations (IOs) also follow this model including the United Nations General Assembly (UNGA).

When consensus is said to be achieved, the official vote as indicated by an international organization's charter is averted. At other times, votes are tallied and policy outcomes follow relatively

clearly from the decision rule. The existence of these consensus procedures represents an explicit choice on the part of states, or at least a subset, to eschew formal voting. Why then, would states prefer to abstain from formal voting in some organizations and not in others? By combining insights from theories of democratic representation, legal and institutional perspectives, this paper sheds light on the question of why states would choose to design formal and informal consensus procedures to accompany the *de jure* voting rule of an international organization.

The paper proceeds as follows: the first section explores the multiple meanings of consensus and provides a useful categorization for the purposes of this paper. The second section investigates the reasons for the development of consensus based upon explanations offered by literatures in democratic representation, law, and institutionalism. In the third section the paper presents hypotheses that connect state preferences with behavior and eventually voting outcomes in these organizations. I evaluate these hypotheses using an original data set of voting rules that spans time and issue area. From the results of the analysis I draw conclusions about the effects of votes not taken in IOs and how we can expect states to adjust their behavior in situations where the decision rule is unclear.

### **What is consensus?**

The very definition of consensus may shed light on the question of whose interests it is meant to represent and/or recompense. Though consensus remains an oft-employed method of decision-making in IOs, the nature of consensus varies widely. In order to determine whether consensus has been achieved there must be some clear definition of the concept, especially if decisions are to be binding upon member states. As opposed to other methods of decision-making, consensus can imply both process and outcome. Process consensus is similar to what Buzan (1981) terms “active consensus.” The process implies a negotiating style whose end goal will produce a consensus among the negotiating parties. This negotiating style was used extensively, though not unproblematically, in UN Law of the Sea negotiations. Alternatively, outcome consensus focuses on whether and how many member states object to a measure under consideration. Thus, outcome consensus is a substitute for a formal vote, while process or active consensus is a negotiating style in which the end result is to produce a universally agreed upon solution.

Consensus in its purest form would imply unanimity, or *strict consensus* for the purposes of this paper. In other words, in order for a measure to go forward no voting member should oppose it or

would actively vote against it if given the opportunity. In bodies such as the UN General Assembly and the World Bank, where members constitute almost every sovereign state in the international system, achieving strict consensus would prove nearly impossible if states were to express their true preferences. In light of this, states when designing organizations must identify the proportion or allocation of potential votes that would constitute a consensus, or alternatively the character of the agreement. For instance, do abstentions count against a consensus decision? How many abstentions imply a lack of consensus? Would one negative vote indicate a lack of consensus? Unfortunately, there is no clear cut rule across IOs to indicate that consensus has been achieved and the concept varies from organization to organization (Osieke 1984).

In some instances, a strict definition has been codified by organizations, indicating that for consensus to be achieved no member may formally object to a proposal. And, “while a contrary view prevents consensus, abstention or silence allows it” (Vignes 1975, 120). This is precisely what the rules of the WTO stipulate: consensus is obtained if “no Member present at the meeting where the decision is taken, formally objects to the proposed decision” (United Nations 1995, fn. 1). Alternatively, in the UN General Assembly, a number of votes have been taken in which there is no direct opposition in the form of a no vote, but an abstention may be enough to move decision-making from consensus to roll-call voting.<sup>1</sup> In the case of formal objection, the issue would be decided by a vote according to the *de jure* decision rule. However, in practice, it is difficult to imagine a situation in which all 153 members would either agree or refrain from objection in concordance with the infrequency of voting in the organization.<sup>2</sup> In other words, if strict consensus is adhered to, the fact that voting is such a rare occurrence in the WTO despite the wide diversity of interests of its large membership is a puzzle.

The existence of consensus can itself be a decision that members of an organization must make, and determining whether consensus has been achieved can be a politically sensitive issue, especially in cases where a measure will move to a formal vote in the absence of a consensus. The difficulty of the transition between consensus and the *de jure* voting rule is evidenced by the United Nations Conference on the Law of the Sea (UNCLOS) negotiations where identifying the concept of an

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<sup>1</sup>Resolution A/RES/47/8 regarding a report of the International Atomic Energy Agency resulted in a vote with 146 yeas, zero dissenting votes, and abstentions by Cuba, Iraq, Jordan, Sudan, and Yemen. This resolution is but one example in which states elected to record their tacit disapproval of a particular UNGA resolution.

<sup>2</sup>Steinberg (2002) notes that “there has been no voting at the WTO” (345).

“absence of consensus” plagued the delegates at the conference. The conference rules of procedure, specifically the “Gentleman’s Agreement” of 1974 indicates that “The Conference should make every effort to reach agreement on substantive matters by way of consensus and there should be no voting on such matters until all efforts at consensus have been exhausted” (Buzan 1981, 348). The result was that the conference had to decide twice on every matter of substance: first, on whether all efforts to achieve a consensus had failed (to be determined by a two-thirds majority vote) and then again on the specific text in question.

### *Formal v. informal consensus*

The particular consensus rule may provide a clearer definition of the concept. Formal consensus rules are those in which the charters or rules of agreements of the IO provide for decision-making through consensus. Formalized consensus rules can be found in the charters or by-laws of the International Monetary Fund (IMF), WTO, and the World Bank for instance. Informal consensus rules are those that develop through praxis. The UN Charter does not specify an instance in which the passage of a measure is provided for through consensus, yet in the General Assembly, most resolutions are adopted without a vote.

Among organizations with formalized consensus rules, the language used to indicate decision by consensus varies among institutions. For example, in the IMF and the World Bank, the Chairman is instructed to “ascertain a sense of the meeting in lieu of a formal vote” (International Monetary Fund 2009, I.11). In fact, nowhere in the IMF by-laws is the term “consensus” used, even though IMF officials and scholars alike have interpreted this provision as consensus decision-making. Alternatively, the WTO rules drafted decades later expressly indicates that decisions will be made on the basis of consensus and while Article IX of the WTO rules of agreement indicate that consensus will be based upon the 1947 General Agreement on Tariffs and Trade (GATT) procedures, the original GATT agreement contains no mention of consensus decision-making. As a temporary agreement, GATT maintained a one state, one vote majoritarian rule, though with the failure of the International Trade Organization (ITO) the organization took on more permanency and developed an informal consensus rule much like those in the IMF and World Bank (Steinberg 2002).

While the UN Charter does not provide for consensus decision-making, the *modus operandi* of the General Assembly is to take decisions in this manner, rather than the simple majority, or in some

cases supermajority, vote as called for by Article 18 of the Charter. Current procedures of the GA emphasize a “search for consensus” whereby “a special effort has been made to achieve consensus on issues rather than deciding by formal a vote, thus strengthening support for the Assembly’s decisions” (United Nations 2010). The decision-making procedures that exist today have never been formally codified, yet roughly three-quarters of UNGA resolutions are decided in the absence of a vote.<sup>3</sup>

Whether an organization that develops consensus via praxis or had an anticipated need for these procedures from the outset may lead to important conclusions about preferences for and effects of consensus rules. Explanations based on temporal clustering cannot account for the prevalence of formalized consensus, as the Bretton Woods institutions were negotiated simultaneously with the United Nations. Moreover, if consensus were the optimum voting rule, then we might expect more organizations to embody these rules. It is therefore worth emphasizing that the adoption of consensus is an explicit choice on the part of institutional designers. Theories explaining this choice may originate from three principal perspectives.

### **The Retreat Majoritarianism: Democratic Representation, Legal, and Institutional Perspectives**

Prior to the establishment of the Bretton Woods and United Nations (UN) systems, international organizations tended to favor equality in voting power based upon the one state, one vote principle. Yet the San Francisco and Bretton Woods conferences established new precedents in international decision-making. These developments explicitly acknowledged that voting power should have a direct relationship to interest and influence rather than emphasizing the political equality of states (McIntyre 1954, Gianaris 1990/91). So while the legal foundations of consensus decision-making predate 1945, empirical trends suggest an increase in weighted voting and with it the rise of consensus.

Despite movement towards weighted voting procedures, decision-making on this basis remains controversial. Unsurprisingly, proponents of weighted voting have tended to be states that maintain considerable material resources. Even while these systems afford major powers greater control over international outcomes, weighted voting introduces nontrivial complications highlighted by the

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<sup>3</sup>The UNGA adopts resolutions in a number of ways: by simple majority, two-thirds majority, without a vote, without objection, and by consensus. According to one UN legal scholar, without vote and without objection resolutions can be considered in the same category as consensus (Sohn 1974, 440).

difficulties of obtaining agreement on the specific weighting formula itself.

One way in which supporters of unequal voting have sought to alleviate political fallout from weighted systems of voting is to include features of sovereign equality into decision-making procedures both formally and on an ad hoc basis. The IMF, for instance, includes a provision for consensus-based decision-making. While no express relationship has been posited between the increase in weighted voting procedures since the establishment of the Bretton Woods system in 1944 and increased usage of consensus decision-making, it is the argument of this paper that these two trends are theoretically and empirically linked.

While the primary decision-making bodies in the IMF, World Bank, and the UN all rely on weighted systems of voting, in each of these IOs the modal form of decision-making is through consensus procedures.<sup>4</sup> For the IMF and the World Bank, the procedures are built explicitly into the by-laws accompanying the Articles of Agreement, while for the UN, consensus has developed as a matter of praxis. Yet, there is no one-to-one relationship between weighted voting and the use of consensus, as they also exist in majoritarian institutions. Though the trend does indicate that weighted and consensus procedures have increased together over time. The extant literature offers several explanations which may account for this phenomenon. They include theories of democratic representation, legal theories, and institutionalist explanations.

### *Democratic Representation and Voting Formulas in IOs*

The increase of weighted voting mechanisms in IOs invokes issues centering on the concept of equity and representation. Theories of democratic representation lay at the crux of these debates. The literature exploring the relationship between democratic theory and representation is large and a full treatment of these concepts is beyond the scope of this paper;<sup>5</sup> however, ideas that explore fairness in representation offer important insights to how states and their citizens are represented into international organizations.

One primary facet of contemporary democratic theory as it relates to representation focuses on the fairness of electoral representation or the mode of optimal representation of a given constituency. This involves defining the nature of the constituency, which even in domestic polities presents chal-

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<sup>4</sup>In the IMF and World Bank the primary decision-making body is the Board of Governors; for the UN this body is the Security Council. Permanent members granted a veto underscore the voting inequality underlying weighted procedures, though all members are given a single vote in the General Assembly.

<sup>5</sup>For a useful review of this literature see Urbinati and Warren (2008).

lenges. Extrapolating to the level of representation in international organizations increases the complexity of the problem, yet remains an important question. That is, if states are represented in IOs, whose interests are at the core of that representation? While legal scholars have argued states are a sovereign, cohesive legal entity and should be represented in IOs in this unitary nature, this claim neglects the principal-agent relationship that lies at the heart of theories of representation. In other words, determining who the principal and agent are in IOs becomes unclear when the citizen is overlooked. Setting aside the complex issue of constituent preferences, this section briefly explores the meaning of representation as it relates to voting mechanisms in an IO.

The allocation of votes to nation-state representatives in IOs explicitly invokes the concept of representation. Voting is, in effect, the means by which the principal authorizes the agent to act on its behalf. Ideas of representation can be extended to the international level precisely because it is the responsibility of governments to act in the interests of their state and by extension their citizenry.

Political representation is characterized by a principal which authorizes an agent to take decisions on behalf of the principal, in turn these agents are accountable to the principal (Pitkin 1967). In democratic polities the principal is a political constituency often linked to some notion of territory (Urbinati & Warren 2008, Rehfeld 2005). While the voting power of states in IOs constitutes a form of political representation, there are two important distinctions to be made between representation at the domestic and international levels. First, it is not clear who exactly is meant to be represented through voting in IOs, and indeed the simplifying assumption which treats states as unitary actors in international relations has largely explained away this issue. Second, the nature of this representation through IOs is often far from democratic, whereas the prevailing literature on political representation relies on the mechanisms of democratic governance to ensure equal representation. I will consider the implications in turn.

In the realm of international organizations, states have traditionally be considered to be singular and sovereign legal entities and voting schemes have reflected this formulation, but there have been a number of dissenting voices advocating the allocation of votes in IOs that takes seriously characteristics of individual states, characteristics such as population and/or resources. A distinction rests between equal voting (sovereign equality) and equal representation (weighted in terms of population or contribution). This debate shares strong similarities with the debate over the U.S.



Constitution and representation in the bicameral legislature. Here small states argued for representation based on the notion of statehood—Delaware was an equal legal entity to Pennsylvania—while large states argued for decision-making authority on the basis of representation of the interests of the individual citizen. Indeed the logic for major powers to move to weighted systems of representation, or perhaps what Madison would call proportional representation, may be likened to the Philadelphia Convention, where “spokesmen for the large states had to refute the claim that the states deserved representation as corporate units,” arguing that, “States possessed interests, but these interests were rooted in the attributes of individuals” (Rakove 1987, 434).

A similar argument was put forward regarding the veto power of permanent members of the UN Security Council. Responding to objections to the veto power of the permanent five members by Australia and other states at San Francisco, the Philippine delegate, Carlos Romulo asserted,

The idea of giving all nations an equal vote sounds decent and democratic, but it is not... It gives each citizen of Iceland a voting power equal to 1,120 American citizens and to 3,600 Chinese citizens. Under this incredible system, it is of course necessary for the great nations to have a veto (McIntyre 1954, 494).

The basis upon which General Romulo made his argument for weighted voting, similar to those posed above based upon notions of population and representation, is more tenuous in the international system, where nation-states are considered to be sovereign entities and the diplomats representing them in IOs are thought to speak for the government. Moreover, if the argument were extended, then India, Indonesia, and Brazil should have been awarded greater voting rights than the United Kingdom or France.<sup>6</sup> Those opposed to the allocation of vote shares through proportional representation (of population, power, or resources), principally diplomats of developing countries, made forceful arguments in favor of sovereign equality based in the state. As one former Director General of UNESCO, Amadou-Mahtar M’Bow indicates,

This overlooks the fact that it is not the Americans, the Chinese, or the people of the Seychelles who vote in the General Assembly (or other similar assemblies), but the States themselves, and that each State constitutes a sovereign entity, which is in law

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<sup>6</sup>Zamora (1980) points to a similar contradiction indicating that unequal voting rights cannot be assigned on the basis of representation stating, “this does not explain why states with similar populations should exercise different voting power because one is wealthier, or stronger, or more productive or a greater consumer, than the other” (573, fn. 28).

equal in every way to any other entity of the same kind (1978, 895).

The second challenge for extending democratic representation to international organizations follows. Arguments predicated upon democratic representation present specific challenges for the allocation of voting rights in IOs for the simple fact that in many organizations all member states are not representative democracies. Thus, the link between the principal (i.e. the constituency) and the agent (the government) is broken because in cases of non-democracies there is no functioning constituency and governments without voting constituencies are not accountable in the same sense that elected governments are.<sup>7</sup> Severing the accountability link between government and citizenry undermines the principle of democratic representation applied to IOs by extension. Stronger are representation arguments when extended to organizations whose members are all democracies such as the European Union, NATO, and NAFTA. In these IOs, the chain of representation is more easily traced from the individual voter to their government engaging in international policy-making on behalf of the state.<sup>8</sup> Reacting to concerns from factory workers in the United States, U.S. presidential candidate Barack Obama pledged to renegotiate the terms of NAFTA to be more favorable to domestic constituencies. Additionally, European politicians are often seen as adopting a pro/anti-EU stance in response to their domestic audiences. Further, when representatives of member states in intergovernmental bodies such as in the EU Council of Ministers are democratically elected this provides what Héritier calls “indirect democratic legitimation” (2003). However, all-democratic IOs represent just a subset of the hundreds of organizations in existence. Thus, alleviating concerns over vote shares according to principles of democratic representation remains a challenge for IOs.

Despite these challenges, representation arguments at least seemed to make inroads in the latter part of the 20<sup>th</sup> century and decision-making authority in international organizations moved from the ideas that anchored the Vienna system based on principles of sovereign equality to one based on modern systems of democratic representation at the domestic level, wherein population or interest, broadly defined, determine the fair allocation of votes.<sup>9</sup> This development is due in part to the proliferation of new states in the post-war period. Representation on the basis of sovereign equality

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<sup>7</sup>See Bueno de Mesquita et al. (2005) for a discussion of government accountability to a constituency in terms of the size of a government’s winning coalition as compared to the size of the electorate.

<sup>8</sup>Indeed, for the EU the chain extends even further to direct representation through the European Parliament.

<sup>9</sup>At the domestic level, the rubric for the allocation of votes rests with the size of the populace, there is some evidence of this in IOs, however, the main basis of weighted allocation tends to be “interest,” usually translating to those states with the largest economic stake in an organization.

presents cumbersome challenges as the number of actors in the system increases along with the heterogeneity of their preferences.

### *Legal Perspectives on Weighted Voting and Consensus*

The retreat from voting based strictly on sovereign equality raises questions that relate to the rise of consensus voting: what changed in the establishment of international organizations that made weighted voting politically possible, and why would states disadvantaged by weighted systems agree to such an arrangement? In terms of political feasibility, the rationale for voting rules shifted from sovereign equality in the pre-war era to a discussion of democratic principles of voting in the post-war period. The most common voting rule prior to World War II, unanimity, was previously considered to be the true embodiment of principles set out by the Congress of Vienna, as it recognized the legal equality of states and considered them as the primary unit of decision-making in the international system. Moreover, unanimity, as opposed to majoritarian rules, further emphasized the principle of non-interference, by preventing a majority of states from making decisions unacceptable to any potential minority. Yet, according to some legal scholars, unanimity was largely discredited owing to difficulties in decision-making revealed by the failure of the League of Nations to resolve the types of conflicts for which it was designed to remedy (Jenks 1965). The disconnect between acknowledging the sovereign equality of states and designing IOs that could address effectively the problems of cooperation created space for discussion of international decision-making along different lines.

For legal scholars defending the concept of weighted voting, the deviation from sovereign equality in international organizations was predicated on distinguishing between what Zamora (1980) calls “*equality before the law*” and “*equality of participation and responsibilities*” (573, italics in original). In short, Bretton Woods formalized what was implicit in previously existing systems (e.g. Congress of Vienna, League of Nations) of Great Power control by founding the notion that equal voting was in fact *unjust*, because it did not account for the added burden, responsibility, and contribution of major powers.

To eschew weighted voting in these institutions as a result of the protestations of less powerful states would have been out of the question for the major powers. Despite insistence on weighted schemes a number of compromises were made. In the UN, voting formulas in the General Assembly

and the Economic and Social Council (ECOSOC) were designed to reflect principles of sovereign equality in order to garner the participation of smaller states (Nicholas 1971). The IMF and World Bank adopted a different system in an effort to give developing countries a sense of inclusion in the decision-making apparatuses of the institutions—consensus decision-making. These concessions were a response to the opposition of states that were directly disadvantaged by this new system of voting. The crux of their opposition mirrors the concerns aired at the Philadelphia Convention in 1787. As one American historian writes of small states, “Their professed fear was that the relative reduction of their representation would expose them to the rapacious impulses of a putative coalition of the large states” (Rakove 1987, 434). Consensus, thus, combines concerns for legal principles of sovereign equality, on the one hand, and consideration of ‘fair’ representation on the other. While legal and representational perspectives offer plausible explanations for the development of consensus decision-making concurrent with increased weighted voting, the selection of these mechanisms rests with member states that participate in the negotiations establishing the institutions and ratifying their charters. Thus, state preferences play a vital role in explaining whether consensus procedures will be used in a particular organization.

### *Institutional Perspectives: Equality v. Expediency*

Fairness in representation and political feasibility need not be at odds;<sup>10</sup> however, with the heterogeneity of interests in the international system, states often find themselves at loggerheads with respect to these two concepts in IO negotiations. One of the first post-war organizations, the International Trade Organization (ITO), failed in part because of a lack of harmonization between the principles of sovereign equality and political expediency facilitated by a weighted mechanism. The British delegation lobbied in favor of a weighted system, arguing that granting states with a relatively small share of international trade equal voting rights with states with a large share is inherently undemocratic, as the states that accounted for the preponderance of global trade could be routinely outvoted (McIntyre 1954, 489).

As indicated above, consensus tends to become a decision-making option when weighted mechanisms prevail, though as we shall see below not in all circumstances, but given that in many cases major powers can issue side-payments to usher through their preferred policies why would they in-

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<sup>10</sup>For instance, it may be the case that IO members recognize the fairness of a weighted voting scheme over a one state, one vote system.

roduce the additional complication of consensus procedures even at the behest of a larger group of developing countries? Accounting for preferences filtered through institutions provides a potential answer to this puzzle. States are concerned not only for control over institutional outcomes, but also for politically expedient solutions to international problems. In other words, when designing international institutions states often make tradeoffs in an effort to achieve a solution that allow them to realize the gains from cooperation. These tradeoffs manifest themselves in the specific design of IOs including voting rules, escape clauses, membership issues, etc. (Koremenos, Lipson & Snidal 2001, Blake & Payton N.d.). Voting rules are one particularly contentious design feature which affords IO members control over outcomes, and consensus is only one of many options states may advocate for.

The extent to which consensus procedures are a concession on the part of major powers has been called into question by a number of authors who note that the outcomes of consensus diverge very little from the outcomes we would expect from the *de jure* weighted rule (Woods 2000, Gianaris 1990/91). Member-states are keenly aware of the power differentials reflected in the formal voting rule and condition their behavior on this basis (Woods 2000). But drawing this conclusion problematically assumes that consensus procedures are designed at least for the nominal benefit of less powerful countries. However, I argue that in some circumstances consensus procedures are explicitly drawn up for the benefit of the *most* powerful states and the features of the organizations such as the issue area that a particular IO addresses affects which group of states for which consensus procedures are designed.

Prior to understanding the effects of taking decisions in the absence of voting and whether outcomes arrived at under these circumstances diverge from those that would have been produced by the original rule, it is essential to also understand the preferences of the actors involved in establishing consensus rules across different organizations. These preferences can provide clues as to whether consensus procedures impact international decision-making in significant ways.

Advocates for voting rule reform in institutions where voting rights are highly asymmetrical as in the World Bank and IMF, have argued that consensus rules represent a more equitable alternative in the face of opposition to reform by those who hold the majority of decision-making weight in these organizations (Bichsel 1994). However, as Woods (2000) argues, consensus decision-making diminishes transparency and directly reflects the *de jure* voting system, thus underscoring the sta-

tus quo power structure, rather than challenging it or allowing its weaker members to do so. Lister (quoted in Woods 2000, 829) makes the point more directly arguing that, “The fact that this structure does not have to be externalized in formal voting on most occasions testified to its strength not its unimportance.”

As mentioned previously, the rationale for including a provision for decisions by consensus arises from the principle sovereign equality of states, but what incentive would those countries with the greatest voting weight have in including decision-making by consensus into an organization that has material payoffs? As realists and institutionalists have indicated, IOs should reflect the preferences of the most powerful states as it is these actors that will attempt to entrench their power further by designing organizations in such a way that the ability to determine policy outcomes would rest primarily with the most powerful countries (Mearsheimer 1994/95, Martin & Simmons 1998, Keohane 1984). Thus, granting smaller states veto powers or allowing for consensus decision-making would counter arguments made by realists, if, in fact, these measures offered small states considerable decision-making authority.

### **Preferences for a consensus rule**

For the purposes of this paper, I assume that groups of states maintain preference orderings over voting rules including consensus procedures. The first group of states consists of developing countries. This group of states is large in number but generally weak in material resources including financial resources, military strength, and trade advantages with the exception of some oil-exporting economies. While developing countries comprise a rather heterogenous group, they maintain similar interests with regard to voting rules in IOs. That is, what unites this group is a similar level of economic development and when acting as a bloc they maintain considerable bargaining leverage in terms of their numbers. Thus, these states would prefer voting rules in the following order: weighted voting in favor of developing countries, simple majority based upon one state, one vote principle, consensus decision-making, and finally rules weighted in favor of powerful, industrialized countries. The first case is both unlikely and as the record has shown improbable. Major industrialized states are unlikely to participate in an organization in which developing countries maintain the bulk of voting power, outside of the existence of voting blocs. This is the case because it is often industrialized states that contribute the lion’s share of resources towards the IO. The

next preferred option would be for one state, one vote decision-making. This is because developing countries comprise over two-thirds of the states in the system and when effective voting blocs are formed their collective power can outweigh that of their industrialized counterparts. The third preference should be for consensus because consensus offers these states some say in decision-making as their preferences, however nominally, must be accounted for. Finally, votes weighted in favor of major industrialized countries offer developing countries little recourse with which to influence international policy-making positively and often allow them even minimal space for obstruction.

Alternatively, powerful industrialized countries should prefer voting schemes weighted in their favor, which, for reasons of contribution cited above, they are often able to obtain. Their second preference should be for a voting scheme that includes consensus. Consensus decision-making offers major powers a way to win the votes of developing countries by engaging in issue linkage or offering side-payments to states that are willing to go along with a particular policy they may have otherwise opposed. While side-payments are an option at any preference level, they are most feasible under consensus because they offer a certain amount of “cover,” or what has been called a lack of transparency (See Woods 2000), for these transactions to occur. The third preference for simple majority reflects major power concern over being outvoted by the more numerous developing countries when interests are aligned such that voting blocs form along these lines. Finally, major powers should prefer votes weighted in favor of developing countries least. Though there is little concern that this option would come to fruition as powerful states would generally refuse to participate in organizations that exhibited this type of voting rule. Taken together, these two sets of preference orderings lead to testable hypotheses about the conditions under which consensus voting will arise.

The preference orderings in the previous section assume a particular alignment of state interests that have the potential to form voting blocs. Thus, in order to understand state preferences for consensus over the *de jure* voting rule, it is necessary to consider the alignment of preferences in various organizations. The period from 1948-1975 marked a sharp rise in two phenomena, the growth in independent, predominantly developing states as a result of decolonization and the establishment of a large number of international organizations. Thus, a primary concern of major powers was to create a system in which they could maintain control over these new organizations while confronting potential voting blocs comprised of developing countries. Under this scenario,

the one state, one vote principal could prove problematic for major powers if state preferences were aligned along North/South lines.

### *Preferences determined by power*

The development of consensus procedures has been addressed as a concession by major powers to small states or developing countries, though this conception of consensus misses the cases in which these procedures have developed to the benefit of major powers. At first blush, consensus or the lack of procedural voting may seem to favor smaller, less powerful states, yet this is not necessarily the case. In organizations where the *de jure* rule is majoritarian, powerful states may prefer consensus based voting. Bloc voting and with it the institutionalization of the “lobbying powers of the developing countries” in organizations like the UNGA and UNCTAD have resulted in greater leverage over developed countries (Zamora 1980, 580). Finding themselves in the minority, major powers pushed for an expansion of consensus procedures in these types of IOs.

The absence of voting and the insistence on consensus suggests some counterintuitive dynamics within international organizations that the literature has remained relatively silent on. That is that the *de jure* rules of these organizations have led powerful states to pursue consensus based decision-making precisely because a formal vote would result in an unfavorable distribution of benefits. For example, Steinberg (2002) points to a lack of consensus in launching the Uruguay Round of trade negotiations, stemming from the efforts of the “Group of Five” composed of developing countries and middle powers, to block consensus. Rather than proceeding to a vote, the United States, EC and Japan agreed to renegotiate some of the terms of the round to include issue areas insisted upon by the Group of Five (352). What would have been the outcome if the industrialized countries had pushed for a vote? Given the balance of developing to developed countries participating in the GATT at that time, it would have been unwise to proceed with a procedural vote, as these countries likely would have been outvoted. The hypothesis below follows from the above discussion:

*H1: Major powers will prefer consensus rules to majoritarian rules*

### *Preferences determined by minority*

Preferences over consensus procedures can be conceptualized by considering the membership of a particular organization and the expected majority and minority coalitions that may arise from



it. Here the type of formal voting scheme the organization adopts will affect which parties might prefer consensus procedures. For instance, in the IMF, OECD countries account for approximately 15 percent of the total membership, but 64 percent of the vote share on the Board of Governors. This fact demonstrates the importance of distinguishing between numerical majorities and voting majorities when identifying preferences for a consensus rule. The question must focus on which parties the *de jure* rule benefits.<sup>11</sup>

If the voting rule disadvantages developing countries then they advocate for consensus procedures. Alternatively, if the voting rule leaves major powers in the minority then we can expect that these countries will push for consensus-based decision-making. The relationship between power and whether a state is in the majority or minority of a voting coalition is intertwined, hypothesis 2 below attempts to parse out the relationship between these concepts.

*H2a: Non-major powers should prefer majoritarian rules in organizations where they comprise the majority of the membership and consensus otherwise*

Related to the second hypothesis presented above is the relationship between certain types of majority voting rules. States that anticipate being in the minority should prefer to take decisions via consensus (as opposed to simple majority) in order to increase their chances of blocking undesirable outcomes. Alternatively, states that expect to be in the majority position should prefer one state, one vote simple majority rules. If these fault lines occur along developing versus developed countries, as in the case of a number of organizations arising in the 1960s and 1970s such as UNCLOS and the UN Conference on Trade and Development, then it is likely that consensus voting will actually be the realistic second preference of both groups. Except in limited cases (some commodity organizations) developing countries cannot realistically expect weighted voting formulas in their favor, thus majoritarian voting should be the first preference of these states, while consensus voting is the next best alternative to weighted voting in favor of their more powerful counterparts. Major industrialized countries may hold out for voting schemes weighted in their favor, with a second preference for consensus procedures over majoritarian voting. A common second preference for consensus voting can set the stage for a decision rule that increases the likelihood of adopting of this type of procedure.

*H2b: Non-major powers should prefer consensus procedures under weighted voting schemes and*

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<sup>11</sup>Numerical majorities are among a number of factors that determine preferences over the formal voting rule (Blake & Payton N.d.).

*majoritarian rules otherwise*

There is some difficulty in assessing these two hypotheses because H1 above suggests that major powers have more of a “say” in the voting rule selected for a particular organization. It is therefore problematic to conclude that the preferences of non-major power members will translate to an outcome of no consensus rule in IOs with majoritarian voting rules. Moreover, international relations and institutional theories suggest that major powers will have greater control over organizations, both formally and informally (Martin & Simmons 1998, Koremenos, Lipson & Snidal 2001, Stone 2008). One way of navigating the difficulty of assessing relative influence over voting rules, apart from numbers, is to consider the voting rules of organizations that have no major power members in the first place. While this cannot answer the question of how exactly major powers change the dynamic within an IO, it will reveal what states choose in the absence of major power membership, when there is potentially less at stake from being in the minority/majority.

Relatedly, states that have more similar interests should be less concerned about being in the minority and therefore more likely to accept consensus voting procedures. We would therefore anticipate the following,

*H3: IOs in which states share more similar values/interests should be more likely to exhibit codified consensus procedures than IOs with more heterogeneous interests.*

As previously noted, some consensus rules are formalized and built into the original agreement. In a sense, they are a precondition for the participation by a particular party. Others, however, develop over time by praxis, suggesting that the original decision-making rule sans consensus was at least minimally acceptable to all the parties that acceded to the organization. By this logic, some change in the organization or member states’ dispositions towards the organization brought about a preference for consensus procedures. The most likely candidate that would drive preferences for allowing for consensus would come from changes in the composition in the minority and majority and/or shifting voting blocs.

### ***Forcing the vote***

In a number of IOs in which consensus is codified, the decision-making rule indicates that a decision will move to a formal vote in the absence of a consensus. The *de jure* rule and the consensus procedure are strategically linked, as attempts to achieve consensus are prior to a possible vote,

rendering the vote “a threat, an inducement to achieve consensus” (Vignes 1975, 120). Because, recognizing the failure of consensus procedures is difficult and inherently political there should be some incentive for states that are disadvantaged by the outcome of consensus to hold out for a formal vote with the hope that such a vote might produce a more favorable result.

Nevertheless, in many instances of IO decision-making where a state might have the possibility of greater gains from a formal vote, they do not hold out and at most an opposing state will abstain. When considering which states might benefit from a formal vote in this situation the dynamic of power and influence again becomes clear. In these cases, states that would benefit from the formal vote (developing countries) may be offered side-payments in exchange for their compliance with the consensus rule. While gathering direct evidence of such activity is difficult as governments are unlikely to admit to compromising their position, the literature on side-payments has indicated that vote buying occurs frequently in international organizations (Tollison & Willett 1979, Stein 1980, Martin 1992). Because of the political landscape of large, universalist IOs and the voting blocs that emerge within them, there is a market for votes. In large IOs with one state, one vote decision-making, small, developing countries maintain a large supply votes and can sell these to large, industrialized countries for a price, which may come in the form of aid, loans, or other votes (Dreher, Nunnenkamp & Thiele 2008, Dreher, Sturm & Vreeland 2009, Eldar 2008).

Stemming from coercive behavior, vote trading can actually be welfare maximizing, and thus the cost of disrupting consensus might be greater than obtaining one’s ideal point on a particular issue when accounting for a potential payoff on another issue. When the market for votes is taken into account, the incentive to force a vote on a particular issue may be diminished. As Eldar (2008) indicates, the stakes for countries in the majority can potentially be considerably high, as in the case of the WTO, where trade between developing and developed countries is extremely asymmetrical and unilateral action by major traders can prove devastating to developing countries. One problem with assessing whether vote buying occurs in IOs that take decisions by consensus is that these linkages are inherently unobservable. Since no vote is taken, it is difficult to know the precise preferences of individual parties and whether they were convinced to go along with consensus. Though in organizations where bloc voting and coalition formation is common, we may infer preferences along coalitional lines. If a consensus is reached despite major divisions along coalitional lines, this

is a credible indicator of vote trading.

### *Consensus as a question of mandate and issue area*

Not all international organizations are created equally and the functions performed by the hundreds of IOs currently in operation range from purely hortatory bodies to those that exert profound influences on state behavior. Recently efforts to distinguish the impact of IOs have expanded, offering some leverage over the question of how organizational type (e.g. issue area, institutional mandate, etc.) affects international outcomes (Boehmer, Gartzke & Nordstrom 2004, Abbott, Keohane, Moravcsik, Slaughter & Snidal 2000, Haftel & Thompson 2006). In terms of the present question, IOs that address different issue areas and different institutional mandates may display different patterns with regard to consensus procedures. Indeed, in IOs where decisions extend binding obligations to their member-states, voting formulas often impose an inherent trade-off between responsiveness and enforcement (Blake & Payton N.d.). Forgoing formal voting procedures in lieu of a consensus decision, or “sense of the meeting” may be interpreted as a choice for efficiency, avoiding potential conflicts that could arise through a contentious formal vote (Zamora 1980). Following Zamora, we might expect IOs with greater institutional mandates to adopt codified consensus procedures. These organizations tend to be those that require deeper cooperation or are more highly legalized. Thus, we might expect the following,

*H4a: The presence of codified consensus procedures will vary according to institutional issue area*

*H4b: The presence of codified consensus procedures will be associated with organizations that have a greater legal mandate*

While this may explain the formal consensus rules in organizations like the IMF and the World Bank, we are still left with the question as to why the UNGA, where resolutions are nonbinding, takes at least three-quarters of its decisions without voting. In institutions where resolutions are not binding on their members consensus may be selected for different reasons, such as in the case of the Non Aligned Movement where resolutions are meant to present a united position with respect to a third party. The desire to appear united may emerge over time increasing the chances that consensus would develop via praxis as a way of de-emphasizing discord within the organization. The next section begins to address the hypotheses and propositions with original data on voting rules in IOs.

## Analysis of consensus-based IOs

To assess the propositions above, I collected data on the voting rules of 230 international organizations. These organizations are a subset of the 450 IOs identified by the IGO data set as part of the Correlates of War project (Pevehouse, Nordstrom & Warnke v2.1). I use this data set to identify the sample of international organizations; however, the COW data does not contain information on voting rules or information regarding the founding members of the organizations. The COW IGO data does record the membership of the organization, but this information often differs from the founding members, which comprise those states that were present for the negotiation of the rules of the charter, including provisions for voting. For the purposes of this paper, I am interested in both the *de jure* voting rule of the IO from the original charter (as opposed to amended versions) and whether there is a provision for consensus decision-making (I refer to such a provision as ‘codified consensus’). Missing data problems prior to WWII prevent collection of data from this period so the subset of organizations included in the sample were all created after 1943 and entered into force after 1944.

Organizations in the data set have also been code according to issue area: economic, security, environment, or general coordination IOs such as postal unions. A variable measuring “affinity” drawing on UN voting records as measured by Gartzke (2006) controls for the similarity of interests within an IO. While affinity scores are dyadic between pairs of states, I obtain an aggregate measure by averaging the affinity scores for all of the pairs of states that share membership in a given organization. Thus, organizations with higher affinity scores can be said to have members that share more similar views.

As noted above, in the case of a number of IOs, there is a provision for both consensus decision-making and for formal voting procedure in the event that consensus cannot be attained. Table 1 lists those IOs in the data set that contain both codified consensus and a formal voting rule. In all but one organization, the European Union, states are instructed to take decisions first by consensus and then by formal vote if consensus cannot be reached.<sup>12</sup>

These cases represent a small number of the total cases in the data set. However, it is important to note that there are organizations, including the GATT (prior to the Uruguay Round) and the UN General Assembly that often take decisions by consensus, but there is no codified consensus

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<sup>12</sup>In the Treaty of Maastricht, EU members can first determine whether to extend qualified majority voting to a particular issue area or whether to preserve unanimity.

Table 1: IOs with codified consensus procedures

Organization	Charter year	De jure rule
Central American Integration System	1991	majoritarian
Common Fund for Commodities	1980	weighted
Eurasian Patent Organization	1994	majoritarian
European Bank for Reconstruction and Development	1990	weighted
European Organization for Nuclear Research	1953	majoritarian
European Postal and Telecom Administration	1959	majoritarian
European Union	1992	weighted
Global Environmental Fund	1994	weighted
International Jute Organization	1982	weighted
International Monetary Fund	1944	weighted
International Nickel Study Group	1990	majoritarian
International Plant Genetic Resource Institute	2001	majoritarian
International Tea Promotion Association	1977	majoritarian
International Telecom Satellite Organization	1964	weighted
International Tropical Timber Organization	1983	weighted
Non Aligned Movement	1955	majoritarian
North Pacific Marine Science Organization	1990	majoritarian
UNESCO	1945	majoritarian
World Bank (IBRD)	1944	weighted
World Trade Organization	1994	majoritarian

procedure in their charter. One of the difficulties in observing whether voting affects state behavior in international organizations, is that barring anecdotal evidence of consensus decision-making, we do not know whether many of the 450 IOs recorded in the COW IGO data set use some version of these procedures. Indeed, not every organization is as high profile as the UNGA or the GATT. In addition to the organizations listed in Table 1, there are 146 IOs in the data set with formal voting rules other than strict consensus.<sup>13</sup> Of these IOs, 20 have two voting procedures of record.

IOs with codified consensus rules span time periods from the inception of the Bretton Woods institutions in 1944 through the 1990s. Moreover, these IOs include diverse issue areas such as economic organizations consisting of trade institutions and banks, commodity organizations, regional integration organizations, and institutions facilitating administrative and bureaucratic organization.

Despite the relatively small number of IOs that possess a codified consensus rule some interesting patterns emerge from the data which speak to the main propositions of this paper from assessing the general frequencies among the IOs in the data set. Hypotheses 1 and 2 investigate the role of

<sup>13</sup>There are 48 IOs that have a unanimity voting rule with no alternate voting procedure included in the founding organizational charter. Unless otherwise noted these organizations are omitted from the analysis because it is nonsensical to consider IOs that already have a strict consensus rule as also possessing an additional consensus rule.

power in selecting whether an organization will have codified consensus rules. The first hypothesis suggests that in organizations with major power membership, powerful members are likely to prefer consensus rules over majoritarian ones and moreover they are not likely to object to having consensus decision-making when the formal voting rule is in their favor. Thus, we should observe a higher rate of codified consensus in IOs with major power (founding) members.<sup>14</sup> Difference of means test suggest that this is indeed the case. Dividing the sample between organizations with a majority rule and codified consensus (concurrent consensus) and those with only some form of majority rule reveals that in 75 percent of the cases in which a concurrent consensus rule exists there is at least one major power founding member. While for the larger set of observations with only formal voting rule that mean drops to 49 percent.<sup>15</sup>

Hypothesis 2a suggests that non-major powers, or most states in the international system, should prefer majoritarian rules to consensus when they comprise the majority of the membership in these organizations. In order to assess this hypothesis and confront the challenges presented by major power participation in IOs, I divide the sample into those organizations with at least one major power member (84 IOs) and those with only non-major power members (61 IOs).<sup>16</sup> Those organizations with no major power membership exhibit a very small likelihood of having a concurrent consensus rule, only 8 percent, while 18 percent of IOs with at least one major power member exhibit a consensus rule alongside a majority one.<sup>17</sup> This result suggests that without the presence of major powers, states are more likely to select voting rules without a concurrent consensus procedure.

What is the result when we break down the sample further into types of voting rules, weighted or majoritarian (one state, one vote)? Hypothesis 2b predicts that non-major powers are more likely to be in the minority if there is a weighted rule and thus, more likely to prefer consensus procedures in this case. When assessing the relationship between the likelihood of a concurrent consensus rule and weighted rule in the full sample of IOs (230), the likelihood of obtaining a consensus rule concurrent with weighted is three times more likely than with other voting rules;<sup>18</sup> however, this result falls away when considering the restricted sample of weighted and majoritarian institutions (145).

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<sup>14</sup>States are coded as major powers according to the Correlates of War National Material Capabilities data set (Correlates of War Project 2005).

<sup>15</sup>This difference is significant at the 0.05 level.

<sup>16</sup>The total number of organizations in the sample drops to 145 from 229 when IOs with only unanimity rules are dropped from the analysis.

<sup>17</sup>A difference of means significant at the 0.10 level.

<sup>18</sup>Significant at the 0.01 level.

Table 2: The Likelihood of Codified Consensus

Variable	(1)	(2)	(3)	(4)
Membership size	0.03** (0.01)	0.02† (0.01)	0.02** (0.01)	0.01 (0.01)
Major power	1.04 (0.66)		1.07 (0.72)	
No. major powers		0.49* (0.21)		0.55* (0.01)
Affinity	3.68 (3.03)	4.73 (3.74)	3.16 (2.95)	4.30 (0.21)
Legal mandate	-1.16* (0.56)	-1.07† (0.60)	-0.55 (0.58)	-0.45 (0.61)
Post-Cold War	1.53* (0.66)	1.57* (0.70)	2.18** (0.77)	2.41** (0.76)
Constant	-6.66* (2.88)	-7.61* (3.57)	-6.05* (2.77)	-7.25* (3.33)
No. Obs.	197	198	127	128
Log-Likelihood	-46.11	-44.30	-40.16	-37.71
Pseudo R <sup>2</sup>	0.20	0.24	0.20	0.25

*Notes:* \*\*p< 0.01, \*p<0.05, †p< 0.10 Cell entries are estimated coefficients from logit models. Robust standard errors are reported in parentheses.

This is due, in part, to the small number of observations with codified consensus rules. Overall, these data suggest that codified consensus is equally as likely to appear in the case of IOs with weighted voting rules like the IMF, World Bank, and the European Bank for Reconstruction and Development as majoritarian (one state, one vote) organizations like the WTO and the Central American Integration System (11 of 20 organizations in the case of majoritarian IOs).

In order to evaluate hypothesis 3 pertaining to the similarity of interests within an IO and hypotheses 4a and 4b which address the potential effects of issue area on whether a codified consensus rule will be adopted concurrent with a majority voting rule, I estimate several a logistical regression model that assesses the likelihood of codified consensus. I include controls for membership size of the organization, and the time period in which the IO was founded.



Table 2 displays the results of the logit estimations. The first two models report all the results from all IOs that could potentially have a codified consensus rule. In other words, these models report estimates from IOs that including those with a unanimity/strict consensus rule. Models 3 and 4 report the estimates from the restricted sample, those IOs that have majoritarian or weighted voting. The dependent variable is the presence of a codified consensus rule, thus the results report the likelihood that an organization will possess such a rule. All four models provide a similar picture of the likelihood of selecting a codified consensus rule alongside another *de jure* rule.

The primary variable of interest (H1), the presence of a major power in an organization, does not seem to have a strong effect in model 1 or 3, suggesting that power may not play an important role in the selection of a consensus rule. However, it is interesting to note that in both models 2 and 4 the number of major powers does indeed increase the likelihood of having a codified consensus rule. Substantively speaking, the probability of obtaining consensus increases only from three to six percent when moving from no major powers to just one major power. Yet, as the number of powerful members increases from one to three we observe an increase in the probability of codified consensus nearly triples to 16 percent. This upward trend in probability continues as it reaches the maximum number of major powers (seven) in the system at one time.<sup>19</sup>

Another hypothesis tested in this model suggests that IOs in which the members share similar interests should be more likely to share consensus rules than those with more heterogenous interests. This is because voting should be less problematic in these IOs and consensus can be viewed as a method of expediting the legislative process. However, this proposition is not borne out in the statistical models as affinity does not reach statistical significance in any of the four models. One potential explanation for this result is that one could make the argument that consensus procedures also work the other way around, that is, states that have heterogeneous interests also prefer consensus procedures because voting may increase the possibility of factionalism and discord, and consensus procedures are designed to downplay antipathy and increase cooperation.

The results for the degree of legalization of institution are mixed. In the first two models the legal mandate of an organization, those IOs whose issue areas correspond to a higher degree of legalization and cooperation such as economic IOs (WTO, World Bank), environmental organizations, and

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<sup>19</sup>Confidence levels at the upper end of this spectrum, i.e. beyond four major power members, become very unreliable due to the small number of observations.

regional integration IOs (European Union, Organization of American States) tend to have a lower likelihood of adopting a codified consensus rule than their counterparts (coordination based IOs such as postal unions and science and education organizations). The results confirm hypothesis 4a that consensus varies according to issue area (though these issue areas are widely grouped as described), but do not support the proposition that more highly legalized institutions will have a greater chance of codifying a consensus rule. In fact, the results from the first two models suggest that legalization decreases the likelihood of obtaining such a rule. Though this result is not supported in models 3 and 4. While the results of this variable are not particularly robust, though legalization of international institutions has been suggested to play a strong role in the outcomes produced by IOs and how states might react to these outcomes. One explanation for this result may be related to the existence of informal consensus rules which cannot be readily accounted for in this model. A number of IOs do use consensus procedures but these procedures are not formally documented, such as MERCOSUR. It is, thus, necessary to uncover the relationship between formal and informal consensus rules.

A final interesting statistical result is the strong relationship between the pre and post-Cold War time periods and the presence of a codified consensus rule. Across all four models the IOs established after the end of the Cold War are more likely to possess a formal consensus rule than in the preceding period. This result is not surprising if we consider that institutional establishment incorporates learning processes. Witnessing the difficulties of passing international policies in the UN Security Council during the Cold War period, states may have been reluctant to formalize a consensus rule that would require agreement from these two states for other organizations. Not until the collapse of the Soviet Union did the enmity between the two superpowers cease to present the same prospect of institutional gridlock.

### **Does decision-making by consensus alter international outcomes?**

This paper contends that power and with it, the prospects of being in the minority or majority voting coalition affects whether states will prefer consensus decision-making rules. Though the models above discuss data collected on only those IOs with formalized consensus rules, the following section discusses in greater detail the findings and extends them to the existence of informal consensus rules.

The results pertaining to the relationship between power and a consensus rule appear to support the proposition that states are more likely to include consensus decision-making in organizations

with weighted voting rules when a major power participates in the charter negotiations. Often, negotiations in this subset of organizations were led by the most powerful members of the international system, which resulted in the unequal allocations of votes. In the case of the IMF one scholar notes that “The adoption of decisions in the Fund by general consensus is no doubt a response to the severe criticisms that have been made against the weighted voting system” (Osieke 1984, 407-8). Thus the inclusion of consensus was largely regarded as a concession to non-major powers. These negotiations may provide a key insight as to why the number of major powers matters more than their presence or absence. The establishment of IOs with formal consensus rules often occurs in the presence of multiple major powers. It is often the major powers, seeking a creative solution to the demands for representation from emerging and middle powers that convinces major powers, like the United States and the UK, in the case of the IMF, that provides the impetus for a formal consensus rule.

Those skeptical of the utility of consensus as a tool of decision-making in international organizations have argued that it does little to incorporate players that have been previously excluded from this process by other forms of voting. In this view, consensus is a practice attempting to disguise inherently unequal representation with seemingly democratic principles of collective decision-making and deliberation. Moreover, these practices cloud transparency in IOs because consensus often “takes place behind closed doors and with no formal and open record of deliberations and votes” (Woods 2000, 832). In this case, consensus can do little to mask the underlying power structure present in international organizations where the method is frequently used. The IMF and World Bank are scrutinized precisely for this reason. In an organization in which major institutional changes require an 85 percent super-majority and the largest shareholder holds 17 percent of the votes, rarely is a decision passed by gathering a “sense of the meeting” that significantly changes the outcome if a true vote had been taken. In these cases, we can expect that the formal vote casts a long shadow over decision-making.

If this were the only case for which consensus rules were established then it is possible that the skeptics are right. However, I have argued in this paper that they are correct in some circumstances—that is, cases in which consensus decision-making has been incorporated into the charter from the outset, normally in IOs where the decision rule is weighted in favor of powerful countries and the voting majority. Consistent with the thesis of this paper, voting minorities will

advocate in favor of consensus decision-making. In cases where this rule has not been codified, fundamental changes in the organization can lead to changes in decision-making practices. Evidence of such trends appear in the development of the international trade regime, and the evolution from the failed ITO, where major powers could not secure their preferred method, weighted voting, to the “temporary” GATT in which consensus was not originally part of the regime but became the *modus operandi*, to the WTO, where states formally codified GATT decision-making principles. In the UN General Assembly consensus decision-making does not appear to be an option in the Charter, yet it is the primary mode of producing resolutions. What the UNGA and the global trade regime share is that both organizations started with principles of sovereign equality. Ultimately, these principles led to fundamental changes in the mode of decision-making as the international landscape changed dramatically with decolonization and the sharp increase in the number of independent developing countries in the international system. As major powers saw their majorities decline and witnessed the formation of powerful voting blocs of developing countries, they pushed for consensus decision-making.

UNCLOS demonstrated the lessons of majority/minority politics in IOs. One of the most significant debates that surfaced during the conference was not on substantive matters but a procedural matter: how decisions would be taken and how matters of the treaty would be decided upon. The major negotiating parties at UNCLOS were comprised of several regional groups; however, among these there was considerable overlap with the Group of 77, representing mostly developing countries in the African, Latin American, and Asian groups.<sup>20</sup> While these groups maintained somewhat heterogenous interests based on their proximity to the coast, the common dividing line was along North/South lines. This division coincided largely with the most contentious substantive issue—control over the deep seabed. According to Miles, “In the case of the seabed regime, the North-South confrontation is clear and dominating since capabilities to exploit the deep seabed are concentrated in a very few hands” (1977, 164).

Traditionally, in conferences held under the auspices of the UN General Assembly, as LOS was, rules of procedure were adopted by a simple majority vote. But, there was significant pressure from the United States, the Soviet Union, Japan and EEC countries to use a more inclusive rule,

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<sup>20</sup>According to Miles (1977, 163), the membership of the Group of 77 at its highest was 118 countries, with 103 of these participating in the Caracas session of UNCLOS. This group accounted for well over two-thirds of the countries participating in the conference.

while the Group of 77 remained in favor of simple majority (Miles 1977, 181). While the decision that followed, at least in terms of the Rules of Procedure should have reflected the preferences of the Group of 77 because they maintained a majority throughout the conference, developed countries were able to make significant inroads in securing decision by consensus, the reason for this rests in the ability of developed countries to withhold their participation in any agreement reached without their consent. This left developing countries with a dilemma, if they pushed ahead with majoritarian principles they would certainly dominate the course of the conference, but this would come at a high cost—the lack of participation by some of the major powers. According to Buzan, “Competitive unilateral action would entail heavy countervailing costs (such as enforcement costs in defense of claims to territorial sea not recognized by major ocean users), as well as the loss of many advantages arising from coordinated behavior” (1981, 329). So while the Group of 77 stood in opposition to consensus rules, they eventually came to accept them as a result of the “refusal of powerful minorities to negotiate under majority voting rules” in order to avoid the worst possible outcome, the failure of coordination with respect to the world’s ocean resources (Ibid.).

I have previously argued that side-payments have allowed powerful countries to influence voting behavior in IOs. Why then would major powers prefer to have consensus rules when they could influence a vote regardless of whether decision-making occurred by consensus or by a formal roll-call style vote? One possible answer is that consensus allows for more pliable votes. In a formal roll-call vote a state must go on record as supporting or opposing a particular measure, but consensus grants states a certain degree of anonymity, easing the tradeoff between accepting a side-payment in exchange for compliance. Consensus decision-making is by its very nature a forum for side-payments and vote-trading because as noted above, consensus rules stipulate that every member should at least tacitly agree to a given outcome for the measure to pass, but it hardly the case that all 153 members of the WTO or all 192 members of the UNGA will be in agreement for a measure to pass without a vote. This is rarely if ever the case. Consensus rules underscore the expectation that issue linkage is the accepted norm.

Thus, consensus decision-making can change outcomes for the latter case. In those organizations where powerful countries hold the minority vote, consensus paves the way for vote trades and allows powerful actors to maneuver around the majority. While this does not mean that powerful states

will unconditionally win out in organizations, it does explain the overall trends in international outcomes that reflect powerful state interests despite the variation in decision-making rules (i.e. formal versus informal consensus). Advocates of voting reform in favor of under-represented developing countries will remain frustrated by the dearth of outcomes that change the rules of the game, yet consensus should by no means be interpreted as an instrument for giving voice to the disenfranchised, unless they happen to be major industrialized countries.

## **Conclusions**

Recently, the design of international organizations has received much attention in the IO literature. Scholars focusing on decision-making in IOs have shed light on the intricacies of voting in these institutions especially in the larger, important institutions like the IMF, the WTO, and the UN. Yet, consensus decision-making in international organizations has largely escaped the attention of researchers save for international lawyers. This project attempts to situate consensus procedures within the the larger literature on voting rules in IOs and within the rational design literature more broadly. This paper challenges some long held notions about the selection of consensus procedures, which groups of actors benefit from them, and how the use of consensus might impact international outcomes.

While there is limited availability of data on decision-making across the population of international organizations, primarily with respect to the informal norms and procedures of decision-making, this paper seeks to expand upon extant knowledge of voting formulae. It is well-known that high-profile organizations like the GATT and the UNGA take decisions via informal procedures that developed over time, but our knowledge of the host of other IOs that may have similar practices is particularly circumscribed. Future research must investigate the intricacies of the informal decision-making in IOs in order to understand better the effects that voting or its absence has on state behavior. This paper is an effort to begin to uncover these dynamics.

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