My dissertation examines how the member states of the European Union (EU) construct the institutions which govern their daily interactions. The design of EU institutions has tremendous consequences for policy making. Yet political scientists lack a clear understanding of how member states collectively reach decisions about institutions. I explore the reasons for member state bargaining success at the EU’s intergovernmental conferences, the negotiating forums leading to the EU’s most important constitutional treaties. Why do some member states perform better than other member states at these negotiations? In other words, why do some states get what they want while others do not? How is this related to domestic political institutions? What role do ratification considerations play in determining winners and losers? Are voters in any way able to affect the outcome of the intergovernmental bargaining process, and if so, how? My analysis adds to the growing literature on the rational design of international organizations by identifying the relevant sources of bargaining power for member states. Moreover, I demonstrate that EU negotiations are best understood using theories from comparative politics, and they often mirror constitutional negotiations among states in a federal system.

Current literature on EU treaty negotiations takes an intergovernmental approach, which draws on an international relations tradition and assumes that member states derive bargaining power from their economic might or population size. Moreover, these studies tend to discount the importance of institutional rules, such as member states’ right to veto the outcome of treaty negotiations. They tend to find that the largest states get what they want, and are responsible
for driving EU integration forward. For example, intergovernmental studies explain European economic and monetary union as a deal between Germany and France, where Germany won the right to set the rules of monetary union by modeling the European Central Bank after the German Bundesbank, and, in return, France received a more stable monetary policy and currency.

However, there are many aspects of treaty negotiation this approach fails to explain. For example, at the EU’s Treaty of Nice negotiations in 2000, Belgium and Portugal prevented France and Germany from implementing their preferred voting rule for the EU’s Council of Ministers. In June 2007, Poland stood up to Germany and won major concessions on the Council voting rule when negotiating the EU’s new Reform Treaty. Altering voting rules for the EU’s Council of Ministers is one of the most important elements of institutional design tackled at EU treaty negotiations, and is often the most difficult part of negotiations. Intergovernmentalism expects victory by the large member states on such important issues, so it is necessary to understand why this approach fails to explain the outcome of these negotiations.

I argue that intergovernmentalism fails because it ignores veto power. Institutionalism, which focuses on veto rights, is more useful than intergovernmentalism in understanding EU treaty negotiations. The institutional approach draws on American congressional literature and typically uses non-cooperative game theory to explain daily politics within the EU. Bargaining power is derived from veto and agenda setting rights in combination with the configuration of actors’ preferences. Because EU treaties are subject to the unanimous consent of member states before they can become law, veto power is a likely source of bargaining power at negotiations. Small and medium-sized states, such as Belgium, Portugal, and Poland, are able to win major concessions from Germany and other large states on important issues such as Council voting rules because these small states prefer the status quo, while the larger states want change.

My basic argument proceeds as follows: member states hold preferences, often a result of domestic politics, over institutional outcomes at treaty negotiations. These preferences, combined with the rules which govern negotiations, namely that the final draft treaty only passes with unanimous consent of the member states, explains the degree of institutional change achieved
at EU treaty negotiations. Using data from the negotiations leading to the EU’s 1997 Treaty of Amsterdam, I find that veto power associated with institutional models better explains negotiation outcomes compared with power from size and economic might, often associated with intergovernmental analyses. Veto power is extremely important, while more traditional sources of power associated with intergovernmental bargaining, such as economic might and population size, are not.

This finding has several implications for the study of EU politics and beyond. For EU politics, it implies that treaty negotiations look much more like federal constitutional bargaining than they do other types of international negotiations. Typically at federal constitutional negotiations, small states have veto power and their support is necessary to change the rules. For example, at the US constitutional convention delegates from New Jersey and Delaware wishing to preserve the status quo were able to prevent James Madison from fully implementing his Virginia Plan, which would have considerably reduced the representation of small states. This is analogous to small EU states demanding and receiving more voting power in the Council of Ministers at EU treaty negotiations. Second, my finding suggests that international relations scholars must seriously examine when traditional sources of bargaining power such size, economic might, and military strength are relevant for negotiating the rules of international organizations compared with other types of power, such as veto rights. Lastly, this finding provides further confirmation of spatial bargaining models, which suggest that proximity to the status quo is a source of bargaining power.

The dissertation is arranged in seven chapters. The first provides an introduction to the literature on institutional choice, international negotiations, and bargaining over federal constitutions. I demonstrate how the literature on European Union bargaining and European treaty negotiations fits into this larger framework. In doing so, I lay out my basic argument as described above.

Chapter 2 provides a broad overview of the Treaty of Amsterdam preference data I use to test institutional and intergovernmental theories. I show which member states generally
preferred change at Amsterdam and which did not. I also demonstrate that the outcome of
treaty negotiations generally matched member state preferences. Finally, I examine how domestic
politics affected member state preference formation by demonstrating that voters’ preferences
played a role in shaping member state bargaining positions. Moreover, I explore how domestic
political institutions affect the degree to which voters’ preferences are translated into government
bargaining positions. Contrary to the voluminous literature on the EU’s “democratic deficit,”
member state preferences over treaty outcomes do account for the position of voters, even after
controlling for the positions of parties in government. This effect is much stronger in member
states which use proportional electoral systems than in those with majoritarian systems.

In chapter 3 I formally demonstrate the differences between institutional and intergovernmental
theories of bargaining power, and I present a statistical model, based on formal theory, to
discern which type of power is more important at international treaty negotiations. This chapter
demonstrates how institutional theories, previously only applied to study daily politics within
the EU, can be extended to help us understand the EU treaty-making. In addition, this chapter
presents a method for formalizing intergovernmentalism, a theory which has not been formalized
previously. Lastly, it outlines the conditions under which these two theories make competing
predictions.

In chapters 4 through 6, I test whether institutional or intergovernmental theories better
explain European IGC outcomes using the Treaty of Amsterdam as my case. In chapter 4, I
apply the statistical model presented in chapter 3 to my data to examine which theory better
explains the outcome of the bargaining process. I demonstrate that the variable capturing insti-
tutional theory best explains the Treaty of Amsterdam outcome no matter how I operationalize
intergovernmentalism. In addition, following the two level games literature and previous spatial
bargaining models on IGCs, I examine whether parliamentary ratification constraints affect the
size of the winset of treaty negotiations.

Chapter 5 more closely examines which member states emerged from the Amsterdam bar-
gaining process as winners and further examines if and how domestic ratification constraints
mattered when negotiating the treaty. Here, I demonstrate that small member states skeptical of EU integration, specifically the Nordic countries, got their way most often at the Amsterdam IGC. I also find some support for the notion that domestically constrained states had stronger bargaining positions.

Chapter 6 presents a case study of the negotiations over Council of Ministers’ voting weights and the number of Commissioners in the EU Commission. These are arguably two of the most difficult and important negotiations regarding changes to EU institutions during this time period. This chapter demonstrates how my argument works at a micro rather than macro level. In addition, it demonstrates that my findings hold across time and it places my findings within the historical context of European integration. I follow negotiations on these issues from just prior to 1994 when the EU expanded to Sweden, Austria, and Finland, until 2002 and the EU’s recent Constitutional Convention. Because the Amsterdam Treaty is only one negotiation, this case study allows me to demonstrate that my findings hold beyond the one case for which I have data. On these most controversial issues, large states had to cave to the wishes of small states desiring to keep the status quo not only at Amsterdam, but also at the Treaty of Nice. Member states were only able reform these institutions at the Constitutional Convention because this convention operated under a very different set of rules than the traditional intergovernmental conference. This, again, demonstrates that veto power associated with institutional theories is more important than power derived from size at intergovernmental conferences.

Lastly, Chapter 7 presents final discussions and conclusions. I highlight again the importance of understanding how the EU drafts its constitutional documents and explain how my approach improves on existing literature by extending institutional analyses to the study of IGCs, formalizing intergovernmental arguments, and testing the two against each other. Finally I discuss how my approach may be used to study bargaining in other settings outside the EU and how it advances the literature on international institutions, federal bargaining, and institutional design more generally.