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The Hidden Dynamics of EU Council Decision-Making

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Abstract

With the increasing prominence of the European Union (EU) in world affairs, the questions, how are decisions made in the EU and how are negotiations conducted both between and within the EU's institutions, have become of utmost importance. This article is particularly interested in assessing factors that contribute to the ability of EU governments to influence decisions in one of the EU's core institutions: the Council of the EU (formerly the 'Council of Ministers'), particularly since the recent re-weighting of votes within the framework of the Treaty of Nice.

With this aim, we describe factors that are likely to affect the relative capacity of governments of EU member states to get their policy views accepted in negotiations in the Council or COREPER (or working groups linked to the Council). We conduct the analysis by providing results from more formal calculations of influence and from descriptions of additional elements that are likely to affect decisions in the Council, broadly related to members' negotiation and pre-negotiation strategies. Finally, we provide information on the capacity of governments to influence the Council's policy on the basis of four examples involving the Dutch government.

1 Introduction

Policy outcomes in the EU are frequently results of rather intensive bargaining and negotiation processes. Whereas the different EU institutions, most notably the European Commission and the European Parliament (EP), and national and transnational lobbying groups certainly all play an important role in the EU's overall 'bargaining game', national government representatives still perform a prominent function in the EU's decision-making process, especially within the frameworks of the European Council and the Council of the EU. Thus, while there is little doubt that the Council is not the only relevant decision-making body in the EU, and its decisions are influenced by the policy stance of other institutions and actors, intergovernmental negotiations are certainly still rather crucial to both the overall development of the EU and its day-to-day decision-making.

With increased integration, membership in the EU has put new demands upon member states aiming to be successful in the representation of national interests in the making of European policy. As some observers of the European decision-making process have put it, negotiation lies at the "heart of the policy process" (Wallace & Wallace 1996: 32-33), and bargaining precedes most EU decisions (Peterson & Bomberg 1999: 16). These observations may apply to the Council (in its various compositions) to a large extent. According to a former Secretary General of the Council, the Council's work is traditionally a "constant process" of negotiations (see *Advancing the Union* 1999: *xlix*).

National governments in the EU are therefore increasingly aware of the need to develop a bargaining strategy in order to gain and exercise influence in the pursuit of their national objectives. This challenge may increase rather than decrease when EU membership expands. Since governments are not always capable of influencing an outcome of a specific policy-making process, it is interesting to explore what factors make a government 'successful' within the framework of the EU's intergovernmental bargaining process. This question becomes even more relevant with the prospect of enlargement: the large increase in the number of member states involved in Council decision-making will make negotiations in the Council even more complex (an issue of which governments in the recent Intergovernmental Conference, IGC, were well aware). Moreover, since decision-making by unanimity in a union of 27-30 members will be ineffective, the latest IGC has introduced a further reduction in the number of areas to be decided by unanimity (although to some observers, the number of policy areas to be dealt with by a qualified majority vote [QMV] is relatively modest, as matters such as taxation, social security, asylum and immigration policy will still allow for a national veto once the Treaty of Nice is implemented).

On the basis of this background, this paper aims to explore conditions that may favour the relative success of actors in the framework of EU negotiations (or reduce their likelihood of being influential). Generally, conditions that may influence the relative success of governments in Council negotiations include some tangible structural factors, such as the size of the country and the style of national decision-making. In addition, there are less tangible factors, like capacities of coalition-building, instructions to negotiators, qualities and bargaining skills of the negotiators, participation in pre-negotiation, and the use of particular negotiation techniques. Other relevant conditions that may help a government obtain a favourable bargaining outcome (i.e., an outcome that closely represents its own interests) will originate in situational factors, such as whether the country has a view that is moderate or extreme as compared to its fellow governments, or whether the government acts in the capacity of the Council Presidency.

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Long and sometimes rather tedious processes tend to characterize negotiations in the Council.¹ All negotiations move through several stages at different levels and involve different participants, whereby the distinction between pre-negotiations and negotiations has become somewhat blurred. The negotiation process actually starts with the drafting of a proposal by the Commission, when officials of the Permanent Representations of the member states in Brussels try to influence the way the draft proposal is formulated. The intergovernmental bargaining process among the EU member states begins in the course of the first review of the proposal in the working groups linked to the Council: different views are exchanged, problems are identified, the search for possible concessions or compromise solutions begins, and in the case of agreement, conclusions are drawn. According to two experts on the work of the Council, 70 per cent of the dossiers on which the Council has to make a final decision are already settled in the working groups (Hayes-Renshaw & Wallace 1997: 40). The next stage in the negotiation process is in the Committee of Permanent Representatives (COREPER), where the member states' ambassadors to the EU prepare the Council meetings and usually reach agreement over another 15-20 per cent of the Commission proposals. In preparing the Council agenda, COREPER distinguishes between those agenda items that ministers simply have to approve, as the substance is already agreed upon ('A' points), and those items that still have to be negotiated ('B' points) because COREPER members were unable to agree on acceptable solutions. Hence, the ministers of the member states, meeting in the various compositions of the Council, are left with only 10-15 per cent of the original Commission proposals. On these, substantive negotiations then take place in the Council.

In the negotiation literature, a distinction is usually made between the pre-negotiation phase and the actual phase(s) of formal negotiations. Pre-negotiations are essentially described as the diagnostic phase, the stage of initiating negotiation before the formal negotiations set in; the phase in which parties define the problem, develop a commitment to negotiate and arrange the negotiations (Hampson 1995: 25 and Stein 1989: 2-3). By comparison, the formal negotiations are the phase of the 'negotiations proper', dealing with the detailed terms of an agreement. "During this phase, the participants will exchange information, discuss alternative negotiation packages, and move from a general formula to the actual details of an agreement" (Hampson 1995: 27). As 85-90 per cent of the decisions taken formally in the Council are based on agreement actually reached in the framework of working groups and COREPER, a clear-cut distinction between a pre-negotiation phase and a negotiation phase is not very evident for the Council. Some dossiers may even move back from the Council to COREPER (or even the working groups) for further discussion, before the Council adopts a final decision. Although, in reality, negotiations in the Council are conducted at all three levels of the

Council hierarchy, and a commitment to negotiate is obvious, for the purpose of this paper we will nevertheless consider the drafting of the proposal by the Commission and the intergovernmental bargaining within the working groups as the diagnostic stages of the negotiation process (and hence as the pre-negotiation phase). Only the intergovernmental bargaining process at the level of COREPER and at the Council level will be regarded here as stages in the formal phase of the negotiations.

In all phases of the actual negotiations, however, bargaining appears to be a rather multi-faceted process. While personalities and bargaining skills of government representatives are likely to be important in both the pre-negotiations and the actual negotiations, domestic policy constraints may influence the flexibility and the bargaining behaviour of government representatives. Because of the interrelatedness between domestic interests and intergovernmental developments in the Union, bargaining may best be conceived in the sense of two-level games (Putnam 1988), where domestic policy preferences determine the intergovernmental bargaining behaviour of EU states. Evidently, in this framework, changing domestic preferences may affect the formation of coalitions on the intergovernmental level (Moravcsik 1991; 1998). In addition, it has to be kept in mind that negotiation outcomes are often obtained through 'package deals'.²

The more the Council can resort to QMV if needed, the voting weights of EU governments is another crucial element that affects the bargaining process. When Council decisions require unanimity, 'voting power' varies little among EU governments, since all of them essentially have veto power (but all may risk negative reputation effects by 'obstructing' a decision). But the increased applicability of QMV is likely to change this pattern, and it certainly reinforces the relevance of the formal distribution of voting weights. Even if governments are inclined, in practice, – whether in working groups, COREPER or actual Council meetings – to search for consensus (see, for example Hayes-Renshaw & Wallace 1997), the option to call a vote certainly influences the bargaining patterns and the search for possible compromise solutions in the Council. It may also be a tool that can be used by the Presidency to try to force a solution, if necessary. Moberg (1998), very familiar with the process of Council negotiations, puts it this way: despite the essential role of the Presidency in deliberations in the Council – or its subordinate bodies – in interpreting whether there is a qualified majority supporting a proposal present or not, EU governments' voting power is essential. It is "constantly in the minds of all participants and influences the alliances they try to form in the negotiations. Member states are aware that they can be outvoted, and this probably tends to stimulate consensus decisions" (Moberg 1998: 349).

Hence, the option to resort to QMV in the Council or in COREPER is likely to have changed the negotiating behaviour of the EU's governments. In contrast

to unanimous decisions, where every member essentially holds a (formal) veto, QMV requires the formation of a blocking minority to prevent a decision from being adopted. In the current constellation of EU membership – i.e., before the changes agreed upon in Nice are implemented – a blocking minority essentially consists when members combine at least 26 out of the total of 87 votes.³ After ratification of the Treaty of Nice, and after enlargement with eleven new member states, this will be 89 out of a total of 342 votes.

Before we turn to a discussion of the factors that determine the relative strength of member states in the intergovernmental bargaining process, we have to make some comments on the possible empirical sources for such a study. Because of the secrecy that still surrounds Council deliberations, the official information released by the Council is of somewhat limited use. Hence, we will resort, in our description of the negotiation process and the factors that may strengthen negotiators in it, to information both from secondary sources and as gathered by one of us in interviews conducted in recent years with participants in the various decision-making bodies at both the national and European levels.⁴

We were not able to explore all of the relevant factors extensively, nevertheless, we can address some of the specific factors that may influence a government's 'effectiveness' in Council negotiations in this framework, and trace some patterns in the decision-making process of the Council, COREPER and working groups. In an attempt to shed as much light as possible on the problem under discussion, we combine a descriptive analysis of factors conducive to making governments 'successful' in EU policy making with methodologies that assess how institutional structures and QMV may favour or disadvantage actors in the intergovernmental decision-making process. In addition, we provide an overview of pre-negotiation and negotiation strategies – including the ability of members to form coalitions – that affect the bargaining potential of EU governments.

The following section of this article provides an overview of factors that may influence governments' effectiveness in Council negotiations. We then present some evidence on actual negotiations in practice (section 3), addressing the relative 'success' of the Dutch delegation in intergovernmental bargaining. We summarize our findings in section 4 of the article.

2 Factors that may influence 'effectiveness'

In this section we will identify nine factors that may be conducive to reaching a desired outcome in Council negotiations.⁵ None of these nine factors is considered to be either a sufficient or a necessary condition for a successful

bargaining strategy, but they may, nevertheless, help explain a member state's success (or relative weakness) in EU intergovernmental negotiations (compare Most & Starr 1989; George 1993). Our focus is primarily on the EU's decision-making in the different constellations of the Council, but some of the factors may certainly also be relevant as regards deliberations in the European Council, the area of 'high politics', and negotiations leading to Treaty Reform. In these latter cases, however, unanimity among the negotiators will generally be required.

2.1 The size and 'weight' of the member state

From the very beginning of the European integration process, a clear distinction was made between larger and smaller members. The founding fathers of the European Communities (EC) already decided that the relative weight of the member states in the Community decision-making process should reflect the size of their population. Thus, the three larger founding members, France, Germany and Italy, each received four votes in the Council, whereas the two smaller states, the Netherlands and Belgium, received two votes, and Luxembourg one. The different sizes of the member states were also mirrored in the number of Commissioners appointed by the governments of the member states to serve in the European Commission. While the three larger states appointed two Commissioners each, the three smaller members had only one Commissioner. These patterns repeated themselves during each enlargement. The United Kingdom was granted 10 votes in the Council in 1973 and could appoint two Commissioners; Spain received 8 votes in 1986 and was able to appoint two Commissioners. Greece and Portugal received 5 votes each in 1981 and 1986, respectively, Austria and Sweden received 4 votes in 1995, and Denmark and Ireland (in 1973), and Finland (in 1995) were granted 3 votes. All of these medium and small-sized states had one Commissioner each. Similarly, in the European Parliament (EP), votes are weighted in proportion to population size, with the smallest member currently holding six seats (Luxembourg), and the largest, Germany, 99 seats. This distribution was put into effect when a modified seat allocation was agreed upon preceding the 1994 EP elections (accounting for the effects of German reunification). The UK, France and Italy each hold 87 seats in the EP.

As we predominantly focus on the Council of the EU in this article, the allocation of votes over time as outlined above is shown in Table 1. The overview is limited to the past and current vote distributions (the new voting weights based on the Treaty of Nice are discussed below).

Table 1 The distribution of votes in the Council, past and present

Member States	1958-72	1973-80	1981-85	1986-94	Since 1995
Austria	—	—	—	—	4
Belgium	2	5	5	5	5
Denmark	—	3	3	3	3
Finland	—	—	—	—	3
France	4	10	10	10	10
Germany	4	10	10	10	10
Greece	—	—	5	5	5
Ireland	—	3	3	3	3
Italy	4	10	10	10	10
Luxembourg	1	2	2	2	2
Netherlands	2	5	5	5	5
Portugal	—	—	—	5	5
Spain	—	—	—	8	8
Sweden	—	—	—	—	4
United Kingdom	—	10	10	10	10
Total	17	58	63	76	87
Votes required for a qualified majority (absolute and as a percentage of the total vote)	12 (70.6%)	41 (70.7%)	45 (71.4%)	54 (71.1%)	62 (71.3%)
Votes required for a blocking minority (absolute and as a percentage of the total vote)	6 (35.3%)	18 (31.0%)	19 (30.2%)	23 (30.3%)	26 (29.9%)

Source: adapted from Hosli (1993)

A re-weighting of votes in the Council was undertaken in the framework of the 1973 enlargement to include Denmark, Ireland and the UK. Since then, voting weights have remained constant. Table 1 also provides information on the total number of votes and on the fraction of votes needed to either constitute a qualified majority or a blocking minority (whenever a vote could be called).

Under the current voting arrangements small states benefit from a 'disproportionate' voting power compared to the larger members as some small states have more votes than their size would indicate. Relative over-representation is indeed a feature present in several systems based on a federal

setup. Examples of similar arrangements can be found in the framework of the U.S. Senate, the German Bundesrat and the Swiss Ständerat. As QMV becomes increasingly the 'norm' in Council decision-making (whether an actual vote is called or not), the impact that relative voting weights can bear on the outcome of Council decision-making will become more and more important. This has led some larger member states to demand an adjustment of the relation of voting weights to population shares. Arguments largely run along the lines that public opinion in larger states will only perceive EU decisions to be 'legitimate' if these states possess a corresponding weight in EU decision-making (for example, Best 1999). Indeed, the EU summit meeting in Nice in December 2000 agreed upon such a re-weighting of votes, although the new criteria of vote allocation are not entirely transparent (in addition, a double-majority clause was introduced, as QMV decisions will, in the future, also need to be supported by 62 per cent of EU population as represented in the Council)⁶.

There have been different attempts to 'capture' the distribution of votes in the Council as a function of EU members' population size for the situation preceding the Nice summit meeting (e.g., Widgrén 1994; Berg & Lane 1996). A relatively simple formula explaining the allocation of votes (since the 1973 enlargement) on the basis of population size is provided in Hosli and Wolffenbuttel (2001). The formula is $v_i = 1.73 \times p_i$ ⁴³, whereby v denotes the number of votes member i has in the Council and p_i is its population size (in millions).⁷ Table 2 provides an overview of respective estimates for the current EU membership and for six members likely to be admitted to the EU in the near future.

Table 2 also provides figures for other re-weighting options, such as the proposal tabled by the Dutch EU Presidency during the 1997 negotiations on the Amsterdam Treaty, and the 'square root rule' (a formula according to which the square root of a members' population size, in millions, determines its voting weight in the Council).⁸ Finally, it shows the new voting weights according to the Treaty of Nice.

Clearly, these options for enlargement and re-weighting yield rather different prospects for the relative 'weight' of current and future EU members within the Council. We will return to the significance of this aspect below.

In addition to their larger population size, most of the current large member states also have a gross national product (GNP) that exceeds the average GNP of the EU. This provides them with an additional bargaining leverage in Council decision-making. As an experienced participant in EU politics remarked: "it is clear that the political and economic clout of member states plays a part when it comes to the making of community decisions. It is easier to set aside the opposition of a small country than that of a large one" (Wallace 1990: 114). Hence, both large population size and economic power may influence the relative 'weight' of a country in Council deliberations.

Table 2 Current vote allocations, alternative proposals and changes according to Treaty of Nice (EU Enlargement to 21 Members)

Formula	$v = 1.73 \times p^{0.43}$ (Current Vote Allocation)		Allocation according to the 'Dutch Proposal'		$v = p^{0.5}$ (Square Root Rule)		Allocation according to Treaty of Nice	
	Exact Allocation	Rounded Allocation ¹⁾	Exact Allocation	Rounded Allocation	Exact Allocation	Rounded Allocation	Exact Allocation	Rounded Allocation
Current members								
Germany	11.48	11 (10)	25	-	9.03	9	29	-
United Kingdom	9.95	10	25	-	7.65	8	29	-
France	9.92	10	25	-	7.62	8	29	-
Italy	9.86	10	25	-	7.56	8	29	-
Spain	8.38	8	20	-	6.26	6	27	-
Netherlands	5.61	6 (5)	12	-	3.92	4	13	-
Greece	4.74	5	10	-	3.22	3	12	-
Belgium	4.68	5	10	-	3.18	3	12	-
Portugal	4.64	5	10	-	3.15	3	12	-
Sweden	4.41	4	8	-	2.97	3	10	-
Austria	4.23	4	8	-	2.83	3	10	-
Denmark	3.52	4 (3)	6	-	2.28	2	7	-
Finland	3.49	3	6	-	2.26	2	7	-
Ireland	3.00	3	6	-	1.90	2	7	-
Luxembourg	1.17	1 (2)	3	-	0.63	1	4	-
Total (15 members)	89.04	89 (87)	199	-	64.45	65	237	-
71 per cent	—	63 (62)	141	-	45.76	46	168	-
66.67 per cent	—	59 (58)	133	-	42.97	43	58	-
(Simple) Majority	—	44	100	-	—	33	119	-
Selected new members:								
Poland	8.32	8	20 ²⁾	-	6.21	6	27	-
Hungary	4.70	5	10 ²⁾	-	3.19	3	12	-
Czech Rep	4.72	5	10 ²⁾	-	3.21	3	12	-
Slovenia	2.33	2	3 ²⁾	-	1.41	1	7	-
Estonia	2.06	2	3 ²⁾	-	1.22	1	4	-
Cyprus	1.48	1(2)	3 ²⁾	-	0.84	1	4	-
Total (21 members)	112.7	112 (113)	248	-	80.5	80	303	-
71 per cent	—	80 (80)	176	-	—	57	215	-
66.67 per cent	—	75 (75)	165	-	—	53	202	-
(Simple) Majority	—	57	125	-	—	41	152	-

1) Note that the allocation of votes, except for the three new EU members as of 1995, was based on their population size preceding the 1986 enlargement.

2) Moberg (1998), Best (1999).

Quite generally, it can also be expected that industrial structure and trade relations will advantage certain member states over others in specific policy areas.⁹

2.2 A centralized and tight coordination of the national negotiation position

The specific way in which the member states have arranged their national input into Council decision-making may also influence the efforts of a member government to achieve a desired outcome. A centralized and tight decision-making style may help the government to secure a strong, coherent national position in the course of all negotiation stages. As a large number of officials from many governmental departments are involved in Council negotiations at different levels, it is obvious that coordination and control over the framing of the national negotiation position is a key instrument to effectiveness in Council bargaining. A recent study of national decision-making styles indicates a large variation in the way member states have organized the preparation of national negotiation positions in the EU (Soetendorp 1999). Essentially, four decision-making styles can be distinguished: a centralized/tight style, a centralized/loose style, a decentralized/tight style and a decentralized/loose style. Participants in Council decision-making confirm that a centralized and tight decision-making style is crucial if a government is to 'speak with one voice'. In such a system, a powerful coordination mechanism enables the government to control the process of drawing up the instructions for national negotiators in Brussels at all levels.

Member states with a loose decision-making style arrive at the negotiations in Brussels rather less organized. The preparation of a unified negotiation position is somewhat obstructed by the absence of an effective coordination centre to overcome the segmentation resulting from ministerial autonomy. The formulation of a coherent national negotiation position becomes even more difficult in the case of a decentralized decision-making style, as the sharing of competence between the federal government and the component units of the federation requires that these different levels of government reach prior consensus on a desired negotiating position. Since national coordination has to deal with all the preparatory stages of Council decision-making in the framework of working groups, COREPER and the Council meeting itself, the lack of an effective tight and centralized coordination mechanism at the centre of government places a serious constraint on the ability of countries with a loose and/or decentralized decision-making style to produce consistent negotiation instructions for these different forums.

2.3 Membership of winning / blocking coalitions

As more and more Council decision-making is conducted under the formal provision of the QMV rule, the ability to build or join either a winning or a blocking coalition may be considered a crucial condition in determining relative success in Council negotiations. As a matter of fact, any attempt of a member state, whether large or small, to gain influence over a desired policy outcome involves coalition building or participation in an existing coalition. The record of Council decision-making indicates that coalitions promoting or blocking Council decisions shift from issue to issue (Westlake 1995: 380). Most coalitions are short-term tactical coalitions based on the promotion of a specific common interest (e.g., liberal trade policies vs. protectionism) or the protection of a certain interest group (e.g., farmers or specific industries). This renders the building of stable winning or blocking coalitions rather difficult.

Therefore, it is helpful to estimate what the relative influence of a member is, given its voting weight, the voting weights of the other members and the threshold for building either winning or blocking coalitions. An interesting approach in this context is 'voting power analysis', a technique to evaluate the role of each member in the framework of possible coalitions among member states. Although criticism has been raised against this approach – the main argument being that it ignores effects of inter-institutional interaction and that only 'connected coalitions' will form in practice (see mainly Garrett & Tseblis 1996, 1999) – we agree with counter-criticism that this approach does provide interesting information on the relative leverage of individual member states within an institution (e.g., Holler & Widgrén 1999; Berg & Lane 1999). Moreover, the very assumption that only 'connected coalitions' will form has recently been challenged (Brams, Jones & Kilgour 1999). Hence, although we certainly acknowledge that other institutions in the EU are essential to EU decision-making and that factors such as agenda-setting, the distribution of actors' preferences and strategic interaction among EU institutions matter, we do believe that voting power analysis has something valuable to add to the current challenges and discussions regarding voting weights and the Council's voting rules.

Table 3 provides an overview of how relative voting power among governments in the Council has changed over time, providing support to the claim that the relative leverage of all members has decreased with every enlargement. In percentage terms, however, decreases may be similar for both larger and smaller states (see, in particular, Moberg 1998). When limited to a 15-member EU, the new distribution of voting weights indeed gives some voting power back to the larger states, mainly to the detriment of the EU's smallest members. Spain, on the other hand, gains by the new provisions. We will look at this below.

Table 3 The Banzhaf and the Shapley-Shubik Power indices in the framework of QMV in the Council of the EU (percentages, 15 member states)

(NORMALIZED) BANZHAF INDEX						
Member States	1958-72	1973-80	1981-85	1986-94	Since 1995	Changes after Nice
Austria	—	—	—	—	4.8	4.3
Belgium	14.3	9.1	8.2	6.7	5.9	5.4
Denmark	—	6.6	4.1	4.6	3.6	3.0
Finland	—	—	—	—	3.6	3.0
France	23.8	16.7	15.8	12.9	11.2	12.0
Germany	23.8	16.7	15.8	12.9	11.2	12.0
Greece	—	—	8.2	6.7	5.9	5.4
Ireland	—	6.6	4.1	4.6	3.6	3.0
Italy	23.8	16.7	15.8	12.9	11.2	12.0
Luxembourg	0	1.6	4.1	1.8	2.3	1.6
Netherlands	14.3	9.1	8.2	6.7	5.9	5.8
Portugal	—	—	—	6.7	5.9	5.4
Spain	—	—	—	10.9	9.2	11.2
Sweden	—	—	—	—	4.8	4.3
UK	—	16.7	15.8	12.9	11.2	12.0
Total	100.0	99.8	100.1	100.3	100.3	100.4
SHAPLEY-SHUBIK INDEX						
Member States	1958-72	1973-80	1981-85	1986-94	Since 1995	Changes after Nice
Austria	—	—	—	—	4.5	3.8
Belgium	15	8.1	7.1	6.4	5.5	5.1
Denmark	—	5.7	3.0	4.3	3.5	2.8
Finland	—	—	—	—	3.5	2.8
France	23.3	17.9	17.4	13.4	11.7	12.8
Germany	23.3	17.9	17.4	13.4	11.7	12.8
Greece	—	—	7.1	6.4	5.5	5.1
Ireland	—	5.7	3.0	4.3	3.5	2.8
Italy	23.3	17.9	17.4	13.4	11.7	12.8
Luxembourg	0	1.0	3.0	1.2	2.1	1.5
Netherlands	15	8.1	7.1	6.4	5.5	5.3
Portugal	—	—	—	6.4	5.5	5.1
Spain	—	—	—	11	9.6	11.2
Sweden	—	—	—	—	4.5	3.8
UK	—	17.9	17.4	13.4	11.7	12.8
Total	99.9	100.2	99.9	100.1	100.0	100.5

Assuming that certain coalitions among member states are more likely to form, attempts have also been made to measure the distribution of relative voting power in specific policy domains. For example, focusing the analysis on the areas of trade and social policy, Kirman and Widgrén (1995) have presented models in which some EU members are more likely to vote with others on the basis of the assumption of 'partial homogeneity'. Similarly, Bilal and Hosli (2000) constrain their analysis to coalitions likely to form on the basis of members' industrial organization and trade relations.

More generally, however, over the years, some core groupings have emerged which are entirely concerned with a specific long-term interest, such as the French-German partnership (promoting further integration); the Benelux grouping recently joined by the Scandinavian member states (protecting small states' interests); the Southern alliance (guarding against cuts in the structural and cohesion funds), and the new grouping of 'net contributors': Germany, the Netherlands, Austria and Sweden (promoting cuts in excessive EU spending). An example of an analysis that takes such 'regional blocs' into account in the study of Council decision-making is Hosli (1996). Being inside such a grouping makes a member state a relatively reliable partner to deal with, as each member state has to gain the support or 'buy off' the opposition of other member states to form a winning or a blocking coalition.

Enlargement will certainly again affect patterns of coalition formation in the Council. How would voting power change with expanded membership? Following up on Table 3 above, Table 4 provides figures on the relative voting power of EU members after expansion (calculations are provided here for 21 members).

Table 4 also indicates that different options of re-weighting affect the relative a priori voting power of EU members.¹⁰ More generally, enlargement will once again lead, to a certain extent, to a 'dilution' of formal voting power of the current EU members, as Table 4 illustrates. Compared to the current situation, the re-weighting agreed upon at the Nice summit meeting indeed enhanced the relative leverage of the EU's largest members (including Spain). However, enlargement by six new members, among them five small and medium-sized ones, will hold the combined share in voting power of the larger members at about the same level as would have been generated by other re-weighting options, such as the 'Dutch proposal' and the 'square root rule'. Nonetheless, compared to the current situation, the relative situation of the small and medium-sized countries deteriorates (with the smallest relative loss occurring for the Netherlands). The additional provision, however, that QMV will require both a given share of total votes and support by 62 per cent of the EU's population, will additionally strengthen the relative influence of the larger states (most notably Germany). This power will be most significant with

Table 4 Distribution of a priori power in a 21-member EU (on basis of normalized Banzhaf Index)

Member State	Current allocation Voting power (in per cent)	Allocation according to 'Dutch Proposal' Voting power (in per cent)	Allocation based on the 'square root rule' Voting power (in per cent)	Allocation according to Treaty of Nice ¹⁾ Voting power (in per cent)
Current larger states:				
Germany	8.47	9.69	10.55	9.17
United Kingdom	8.47	9.69	9.67	9.17
France	8.47	9.69	9.67	9.17
Italy	8.47	9.69	9.67	9.17
Spain	7.03	8.04	7.55	8.67
Current middle-sized and smaller states:				
Netherlands	4.53	.97	5.14	4.44
Greece	4.53	4.17	3.88	4.12
Belgium	4.53	4.17	3.88	4.12
Portugal	4.53	4.17	3.88	4.12
Sweden	3.72	3.34	3.88	3.46
Austria	3.72	3.34	3.88	3.46
Denmark	2.75	2.54	2.60	2.43
Finland	2.75	2.54	2.60	2.43
Ireland	2.75	2.54	2.60	2.43
Luxembourg	1.84	1.27	1.30	1.42
Selected new members:				
Poland	7.03	8.04	7.55	8.67
Czech Republic	4.53	4.17	3.88	4.12
Hungary	4.53	4.17	3.88	4.12
Slovenia	2.75	1.27	1.30	2.43
Estonia	2.75	1.27	1.30	1.42
Cyprus	1.84	1.27	1.30	1.42
Total larger member states (including Poland)	47.94	54.84	54.66	54.02
Total medium-sized and small states	52.05	45.20	45.30	45.94
Total	99.99	100.04	99.96	99.96

Note: on actual voting weights for these scenarios, see Table 2.

We simplify the analysis here by neglecting the second decision quota introduced by the Treaty of Nice (i.e., support of 62 per cent of the EU's population, as represented in the Council). The decision threshold is assumed to be 72 per cent of the vote total (it is currently 71 per cent, and with 27 members it will increase to almost 75 per cent, according to decisions taken at the Nice summit meeting).

respect to the formation of blocking coalitions.

Certainly, as the Union expands, the formation of winning or blocking coalitions will increasingly require a cultivation of bilateral relations among the officials and policy makers of member states, also outside Council meetings. In practice, many informal, bilateral consultations are already being conducted in various capitals, where the search for a solution to a specific dossier clearly starts before the decisive Council meeting. In a Union of 25 to 30 member states, plenary Council meetings, where each delegation is allowed ten minutes to present its national position, would take five hours (see Operation of the Council 1999). As a result, bilateral and multilateral contacts among the core members outside Council deliberations will certainly become an essential element of the intergovernmental bargaining process. And thus, belonging to such a core may become crucial to influencing Council decision-making.

2.4 A flexible negotiation position

Flexibility in the interpretation of the 'negotiation instructions' may contribute to the success of a member state in EU negotiations in two ways. As Council policy making has long decision-making cycles, involving a large number of counterparts, negotiation instructions issued in a member state's capital before a meeting in Brussels may be outdated by the time the meeting takes place, due to changes in the negotiation positions of other member states. In addition, once negotiations have started and the process of give and take has begun, intergovernmental bargaining at all levels of Council decision-making generates its own dynamics. To reach a desired outcome, negotiators need some room for manoeuvre, as new opportunities render a 'creative' interpretation of the original negotiation instructions necessary. Imposing a binding national mandate on negotiators – as is often done in Denmark – does not allow negotiators to reach compromises (or to settle for 'sub-optimal' outcomes in specific areas in order to obtain more preferred results on other issues).

In this context, providing national negotiators with a flexible negotiation mandate in the pre-negotiations, as well as in the actual negotiations, does not exclude imposing a consistent political line on the positions to be taken by national representatives in the various preparatory forums and decision-making bodies in Brussels. This has also been indicated in our discussion of the second condition above.

2.5 Involvement in pre-negotiations

As the European Commission is the place where a proposal is formulated before the actual intergovernmental bargaining process in the Council begins, being present at the drafting stage of such a proposal can be rather important. Although the Commission has the responsibility to draft proposals for submission to the Council,¹¹ a practice has emerged in which Commission officials, while drafting a proposal, already assess their acceptability by the Council and make an effort to formulate negotiable proposals (Hayes-Renshaw & Wallace 1997: 186). This is usually done through informal consultations with national officials from the permanent representations, or officials in national capitals responsible for the relevant dossier (who will also participate in the Council working group once a proposal has been submitted to the Council). In many instances, the same officials are already lobbying the Commission in an attempt to leave their 'fingerprints' on the proposal. Most member states understand that the more they are involved in the drafting of a proposal, the more they may realize their national preferences in the final outcome. Accordingly, although all member states know that Commission officials and Commissioners are not allowed to advantage a specific member state, most governments consider approaching high Commission officials and Commissioners who have the same nationality (and certainly detached national experts) to be a legitimate tool to influence a Commission proposal at its very formative stage.

Once a proposal has been submitted to the Council, the process of pre-negotiation moves to the specialized Council working groups. Here the member states' experts from the relevant home department, or officials from the permanent representation, present the national position on the dossier, propose amendments and search for compromises that may lead to agreement on a specific proposal. The working groups have no decision power, but the outcome of their deliberations is reported to COREPER, which, during its preparation for the Council's final decision, generally maintains the consensus reached in the working group. As mentioned earlier, about 70 per cent of the dossiers on which the Council has to take a decision have already been settled in the working groups. Although all member states participate in the working group meetings, they do not all fully appreciate the significance of the meetings. Whereas some member states send their national experts to the working groups well prepared, other member states simply send an official from the permanent representation, who is usually less prepared and lacking the necessary expertise to obtain a good deal.

2.6 Leadership in negotiations

Exercising leadership during the intergovernmental bargaining process may increase the prospect of success in reaching a desired outcome. Decision-making in the EU is widely recognized by students of EU decision-making as a process of 'joint problem solving'. Negotiators with problem-solving skills and effective communication skills may therefore exercise entrepreneurial leadership (Hampson 1995: 42-43). They are able to invent new solutions to overcome bargaining deadlocks or to bridge differences, and are usually also effective in brokering and making deals. Negotiators who have the reputation of being entrepreneurial leaders may exercise considerable influence in COREPER and Council meetings and may act as persuasive advocates of desired national outcomes.

2.7 The use of bargaining tactics

The use of bargaining tactics and negotiation strategies may help a member state to gain support for a desired outcome or reduce opposition to such an outcome. According to many observers of intergovernmental bargaining in the EU, issue linkage is the most common bargaining tactic. It implies the exchange of concessions between coalition partners across different issues in the form of package deals, 'logrolling' or side-payments. Generally, logrolling refers to 'vote trading' in the sense that one actor votes for an issue that does not serve his or her interests in exchange for support on another issue. Logrolling has been described as a relatively efficient means to reach decisions, as it makes it possible to respond to the different weighting of preferences held by different actors.¹² Side-payments refer to compensation given to a bargaining party that loses from a particular collective policy measure in order to gain its support on the issue. Other intergovernmental bargaining tactics include credible threats to veto when a unanimous vote is required, or the threat of joining alternative coalitions when a winning majority or a blocking minority is necessary under the QMV rule (Westlake 1995: 379, 385; Moravcsik 1998: 64-65, 482-483).

2.8 Council presidency

Sitting at the helm of the Union makes it easier for a member state to achieve a desired national outcome in the framework of Council negotiations. When a member state is president, that state occupies the chair at every Council meeting in all its various compositions (about 22), all COREPER meetings and

every working group meeting (about 250). They are expected to be impartial and refrain from any attempt to influence Council decision-making. In practice, however, very few member states acting as the chair will ignore national preferences when a compromise is formulated. When a member state occupying the chair opposes decision-making on a specific issue, it can manipulate decision-making by delaying the process by which an issue reaches the agenda, or simply keep issues off the agenda (Westlake 1995: 384). Moreover, while the agenda of each presidency is usually dictated by ongoing business and current events, few member states can resist the temptation to use the presidency as an opportunity to put some topics that may be considered national 'hobbyhorses' on the Council agenda. However, to make its presidency a success a member state has to search for compromises, and this limits its ability to pursue national preferences. Moreover, in a future Union of 25-30 members, the benefits a member state can derive from the presidency in promoting its national goals will most likely diminish, as member states will hold the presidency only every 12 to 15 years, instead of every seven and a half years as is currently the case (unless, of course, the current system of six-month presidency periods is changed).

2.9 A critical domestic polity

A critical electorate at home may help a negotiator to achieve a desired outcome. The two-level games approach to international negotiations views international bargaining as a process of 'double-edged' diplomacy that forces the negotiator to balance between international and domestic concerns. It recognizes that domestic policies can be used to affect the outcomes of international bargaining, and that the latter may be aimed at achieving domestic goals (Evans et al. 1993: 15-17). Thus, according to the logic of two-level games, a negotiator may exploit a critical electorate at home to get a desired outcome at the negotiating table. As Moravcsik argues in a discussion of Putnam's two-level games approach: "While the traditional view is that internal divisions weaken a state's bargaining position, the two-level-games approach suggests that divisions may under some circumstances strengthen it" (Moravcsik 1993: 28). This reasoning supports the well-known 'Schelling conjecture'. According to Schelling, "the power of a negotiator often rests on a manifest inability to make concessions and meet demands..." (cited in Putnam 1988). The strategy of 'tying hands' attempts to persuade the opposing negotiator to compromise at a point closer to the first statesman's preferences. Indeed, looking into the decision-making record of the EU for a number of intergovernmental conferences, where agreement on politically

very sensitive treaty amendments had to be reached, some member states used their critical electorate at home – who had to ratify the treaty – as a leverage to reach agreement at the lowest common denominator or to receive an ‘opt-out’ clause (United Kingdom, Denmark).

3 Factors that influence leverage in the Council: the Dutch negotiating stance

Having discussed nine factors that may be conducive to reaching a desired outcome in Council negotiations, we will use four case studies to illustrate how empirical work that follows George’s method of ‘focused structured comparison’ can produce conditional generalizations (George 1993: 124). As mentioned above, none of these nine factors are considered necessary or sufficient conditions for a successful bargaining strategy. But all are elements present in the four cases below, and they may help to explain a member state’s relative success (or failure) in EU negotiations.

The first two cases refer to major attempts by Dutch policy makers to twist their EU partners’ arms, in an attempt to reach a final decision on two key documents that were consistent with the Dutch desired outcome. The cases concern negotiations over key decisions in the recent history of the EU: the negotiations on the Treaty on European Union (the so-called Maastricht Treaty); and the negotiations over the European Commission’s *Agenda 2000* package of reforms regarding the EU’s spending programmes, the so-called *Financial Framework 2000-2006*. Negotiations on a new treaty initially focused on economic and monetary union, but, as a result of German unification, other issues dealing with the reform of the institutional framework were added to the agenda. Although the proposed new treaty was discussed during several meetings of the European Council before the heads of government approved the final agreement on a Treaty on European Union (TEU) in Maastricht in December 1991, the actual negotiations were conducted at officials level and at ministerial level, organized under the Luxembourg presidency in the first half of 1991 and the Netherlands presidency in the second half of 1991. The Luxembourg presidency managed to produce a first draft of a treaty, which proposed a three-pillar structure for the union (Pryce 1994: 47). That way a division was made between an Economic and Monetary Union in the first pillar, and the Common Foreign and Security Policy (CFSP) in the second pillar and the cooperation in matters of justice and home affairs in the third pillar. This structure made possible a distinction between a community mode of decision in the first pillar, with a strong role for the Community institutions in decision-making and emphasis on qualified majority voting in the Council

when Community matters are being dealt with, and an intergovernmental mode of decision-making in the second and third pillars with limited roles for the Commission, Parliament and Court.

Most member states welcomed the three-pillar concept as an acceptable framework for further negotiations. However, some member states – including the Netherlands – expressed their reservations about the proposed three pillar structure as it introduced an intergovernmental element that not only reduces the role of Community institutions in the CFSP and justice and home affairs, but over time also poses a serious threat to the institutional setting and the general policy-making framework of the Community. The European Commission and European Parliament naturally shared these reservations. So when the Dutch government took over the EU presidency in July 1991 it replaced the draft treaty negotiated under the former Luxembourg presidency with a substantially revised draft treaty. The Dutch presidency actually abolished the Luxembourg three-pillar structure and presented a new proposal to its partners that kept the existing single institutional structure in place, incorporated the CFSP and justice and home affairs into the Community structure and proposed more QMV in CFSP.

Although the Dutch draft treaty was bolder and more controversial than the Luxembourg draft treaty, as it challenged existing assumptions about national sovereignty, the Dutch government had not expected the fierce opposition it received from the other member states when the Dutch Presidency presented the new draft in September 1991. With the exception of Belgium all member states rejected the proposed Dutch draft treaty. They refused to negotiate on the basis of the Dutch text and during a Council meeting, which is labelled in the annals of Dutch foreign policy as ‘black Monday’, the Dutch negotiators were forced to withdraw their draft and to continue the intergovernmental negotiations on the basis of the original Luxembourg draft treaty (Pryce 1994: 48; Moravcsik 1998: 449). Thus, the whole attempt to influence the outcome of the IGC negotiations on the TEU in the direction desired by the Dutch delegation can be regarded as a failure.

The second attempt to influence the outcome of Council negotiations, which we will briefly look at, concerns the *Agenda 2000* package of financial reforms to the Union’s spending plans for 2000 to 2006, the *Financial Framework 2000-2006*, which was made necessary by the enlargement of the EU to the East. The *Agenda 2000* package set out a settlement on a seven-year framework for the EU budget that meets the costs of enlargement of the EU without jeopardizing spending on agriculture and regional development, the two big budget areas. It became the subject of intensive negotiations in working groups, COREPER and the Councils of Ministers, in the period between its publication by the Commission in July 1997 and the final

agreement in the Berlin European Council meeting in March 1999. *Agenda 2000* raised the delicate issue of burden sharing, which, according to Brigid Laffan, has proved to be one of the most explosive and passionately debated issues on the financial agenda since the 1970s (Laffan 1997: 47). In an attempt to end the annual budgetary battles between the member states, the Commission and Parliament, the former Commission's President Jacques Delors introduced a new budgetary system in 1988 based on a multi-annual budgetary framework. This medium-term 'financial perspective' laid down the member states contributions to the European budget as well as the annual expenditure limits, which can be changed only at the margins. The fixed budgetary guidelines offered the Union financial stability for several years and imposed budgetary discipline on EU spending (Laffan 1997). The *Financial Framework 2000-2006* was a follow up to the so-called 'Delors II' package, which had fixed the EU financial perspectives for the period 1993-1999.

In the budgetary battle over the EU spending plans for 2000-2006, which actually focused on the question of who should pay for the consequences of enlarging the Union to Central and Eastern Europe, the net payers – the countries that contribute more to the EU budget than they receive from it – took a tough position. They insisted on a ceiling on overall EU revenues at less than 1.27 per cent of the combined gross national product of the 15 member states, as well as a limit on the amount of EU cash available to finance the Common Agricultural Policy and a reduction in the spending of the structural fund by making EU cash only available to those regions that need it most. The net beneficiaries – the countries that receive more from the EU budget than they contribute – were ready to compromise on a stabilization of the agricultural expenditures, but rejected considerable reductions in regional aid.

The Netherlands, already the largest per capita net payer in the Union, made the question of a fair distribution of the financial burden among the EU member states a central issue in the debate over *Agenda 2000*. Since the prospect of an uneven balance sheet between contribution to the EU budget and receipts from the budget increased under the *Agenda 2000* proposals, the Dutch government wanted to realize a cut of 1.3 billion Dutch guilders (600 million ecu) in its overall contribution to the EU budget or to claw-back that amount of money from the EU budget over the whole budget period. In fact, the government had already credited a similar amount in its national multi-annual budget as a reduction in its contribution to the EU budget. To achieve that goal the Dutch government took a hard-line on future financing. The Netherlands demanded a stabilization of EU spending between 2000 and 2006, suggesting a freeze on the EU budget in real terms, thereby keeping increases in budget payments in line with inflation. In the Dutch view, such a strict budget discipline in the funding of EU policies corresponded with the self-imposed discipline in national

budgets. To realize the necessary cuts in the overall agricultural expenditure and regional aid, the Netherlands proposed transferring some responsibility for agricultural income support back to the member states, and abolishing subsidies from the EU structural funds to countries that qualified for entry into the single currency zone. The Netherlands also proposed changing the way the EU budget is financed through a new general correction mechanism to refund member states that pay too much. In fact, the Dutch wanted to adjust the current system of burden sharing by calculating budget contributions on the basis of gross domestic product instead of value added tax receipts, as it would bring member states' budgetary burdens more in line with their relative prosperity (The European Union 1998: 27).

In the final agreement over the EU spending plans for 2000 to 2006, the net-payers almost got their way. The member states agreed that over and above inflation the EU budget would grow by only one per cent a year between 2000 and 2006. This meant a tight ceiling on overall EU spending and phased-in reductions in agriculture and structural funding. Exception was made only for sums that were allocated to finance enlargement. Although member states could not reach consensus on a generalized correction mechanism, they agreed that member states' contributions to the EU budget should be modified to be a better reflection of their ability to pay. In fact, several changes in the way contributions to the EU budget are calculated indirectly compensated net-payers for their excessive budgetary burdens at the expense of net beneficiaries. Thus, although the Netherlands remains the largest per capita net payer, it obtained the near-freeze in the overall EU budget it wanted and managed to cut its contribution to the EU budget. All in all, the Dutch achieved a clawback over the whole budget period, that was even more than they had been after (*European Voice* 1-7 April 1999).

Contrary to these two 'history-making' decisions, the other two case studies concern two Council decisions that may be considered 'policy-setting' day-to-day decisions.¹³ Moreover, while the two decisions discussed so far required a unanimous vote, the two decisions to be discussed next could be decided by QMV. The first decision involved a proposal for a Council Directive with regard to the gradual liberalization of the Union's inland waterway transport market. The liberalization proposal, which had been requested by the Council in 1994, was submitted in September 1995.¹⁴ It was designed to progressively abolish the existing system of minimum compulsory tariffs and systems of chartering by rotation, the so-called 'taxi rank' system that forced clients to take the next boat in the line at nationally agreed rates. It had to guarantee the financial stability and survival of a large number of inland waterway carriers. The liberalization process was to be completed by January 2000.

Since the programmed liberalization was likely to cause a serious and persistent excess of supply over demand, and lead to transport tariffs that would be significantly below cost price, the Commission also proposed two Council regulations that included supplementary measures to smooth the transformation to a free market. The first measure helped the member states concerned to deal with the problem of overcapacity through a structural reorganization of the sector. It facilitated the establishment of a fund, using financial contributions from the member states most concerned and the inland waterway industry, as well as financial contributions from the EU. The fund assisted carriers to withdraw vessels from the market by means of scrapping or closing down their business. It was expected that this measure would help cut the capacity of inland shipping by 15 per cent, equalling the structural overcapacity in the sector. The second measure was to strengthen further the position of freight transport by inland waterway, after liberalization and reorganization of the market. It provided for a financial contribution from EU funds to make the necessary improvements in the inland waterway infrastructure. Private and state-owned companies were entitled to receive 50 per cent of their investment in terminal facilities from the EU. This was in line with the Union's transport policy, which aimed to create opportunities for the inland shipping sector in order to obtain a greater share of the volume of overall transport in the Union. Although the Commission's proposal consisted of three separate elements, it was presented to the Council as a comprehensive package.

Only five member states were directly involved in the programmed liberalization – Austria, Belgium, France, Germany and the Netherlands – and their shares in inland shipping were not equal. In 1996, the Dutch share in the Union's inland shipping fleet was about 56 per cent, Germany's share about 26 per cent, Belgium's share about 14 per cent, whereas France's and Austria's shares were only about 2 per cent each. Moreover, while Germany liberalized the German waterways transport market in January 1994, and the French Parliament adopted legislation in May 1994 that would lead to a gradual liberalization of the French waterways transport market, the Netherlands, Belgium and Austria still had to take some significant steps towards the liberalization of their inland shipping markets. To avoid serious market disturbance, Germany pressed the Commission to come up with concrete legislation that would force the other member states – the Netherlands in particular – to liberalize their inland waterways markets as well.

The Dutch government was, in principal, in favour of liberalization, but faced fierce opposition from a vast majority of the ship owners, who had so far successfully prevented any attempt by the government to scrap the rotation system. As a matter of fact, after several blockades of Dutch inland waterways, Dutch ship owners managed to persuade the Dutch government and the Dutch parliament to guarantee the continuation of the existing rotation

system. The Dutch government could escape political and social opposition to the proposed liberalization of the inland waterways transport market only when it was forced to do so by European legislation, and if such imposed liberalization went hand-in-hand with financial support, it would ease the pain of those inland carriers who decided to close down their businesses. Thus, Dutch officials made their approval of the Commission's liberalization proposals conditional upon a gradual implementation of liberalization, and a financial contribution from the Union that would help the government finance a scrapping operation and provide financial incentives for the necessary investments in terminal facilities. The commission proposal, as described above, did indeed meet the Dutch wishes.

However, while all member states were in favour of the proposed Directive, many states had their doubts about the proposed supplementary regulation. Britain in particular expressed intense opposition to the idea of a co-financing by the Union of the proposed scrapping measures. In the British view, the overcapacity in the inland shipping sector should be dealt with by the industries and the member states concerned. The British position received backing from other member states that had no interest in inland shipping while others, including Germany, expressed their reservations about the proposed co-financing. To break the deadlock created by a blocking minority, the original proposal was amended. Agreement was reached to limit the EU's financial participation in the scrapping operation, so that the EU finally paid only half of the originally proposed sum of money (20 million instead of 40 million ecu). Although the Dutch government had preferred the original proposal, it was satisfied with the final outcome, since the Dutch share in the EU payment was quite large given the relative size of the Dutch active inland fleet compared to any other member states. Moreover, although the Dutch negotiators became quite isolated in their demand for EU financial support, they were successful in their effort to persuade a blocking minority to remove their objection to any proposal that made EU funds available for the scrapping operation. In other words, the Dutch managed to maintain the package idea that linked liberalization with supplementary financial support to the member states concerned.

The second decision of the Council concerned a proposal for a Council Directive with respect to the liberalization of the postal services market in the EU. The proposed directive was inspired by the Commission campaign to promote the liberalization of long protected public sectors, where publicly owned enterprises enjoyed national monopoly rights. The proposed Directive, which was presented in November 1995, adopted a limited and gradual approach towards the opening of the postal services market, to induce more competition from privately owned business. The vast majority of the domestic letters market (letters below 350 grams) was reserved for state post offices. The

Table 5 *Nine conditions that help explain the success or failure of a member state in EU negotiations: the example of Dutch negotiators. Dutch TEU draft treaty and Agenda 2000, financial framework 2000-2006.*

Conditions that favour success	Dutch TEU draft treaty	Agenda 2000 (Financial Framework 2000-2006)
(A) Large member state	-	-
(B) Centralized and tight coordination of national negotiation position	-	+
(C) Membership of winning/blocking coalitions	-	+
(D) Flexible negotiation position	-	-
(E) Involvement in pre-negotiations	-	+
(F) Leadership in negotiations	-	+
(G) Use of bargaining tactics	-	+
(H) Council Presidency	+	-
(I) A critical domestic polity	-	+

(+) Indicates that the condition is present

(-) Indicates that the condition is absent

liberalization of postal services was limited to incoming cross-border mail and the delivery of direct mail (advertising material), but even these relatively modest steps were delayed (until 2001). The proposal, nonetheless, caused a deep divide between the member states that resisted any decrease in the monopoly of national postal offices and those states demanding a more radical opening up of the market. Those opposed to liberalization were afraid that the opening up of the postal services market to competition from the private sector would have devastating social effects, as it might lead to a considerable job loss in the postal services sector. Moreover, it might put loss-making postal deliveries to remote rural areas at risk. Those supporting liberalization have already embarked on the path towards liberalization in their national postal services, and hence supported the opening up of the European post market.

During negotiations in the Council (as well as the Council working groups and COREPER), the French government, which viewed the proposed Directive as unacceptable, made an effort to water down the proposed directive. A German-French amendment suggested keeping domestic letter delivery as well as cross-border letter deliveries and direct mail (below 350 grams) as a domain

Table 6 *Nine conditions that help explain the success or failure of a member state in EU negotiations: the example of Dutch negotiators. Liberalization of inland waterways transport and liberalization of postal services.*

Conditions that favour success	Liberalization of inland waterways transport	Liberalization of postal services
(A) Large member state	-	-
(B) Centralized and tight coordination of national negotiation position	-	+
(C) Membership of winning/blocking coalitions	-	+
(D) Flexible negotiation position	-	-
(E) Involvement in pre-negotiations	-	+
(F) Leadership in negotiations	-	+
(G) Use of bargaining tactics	-	+
(H) Council Presidency	+	-
(I) A critical domestic polity	-	+

(+) Indicates that the condition is present

(-) Indicates that the condition is absent

reserved for national post offices until 2003, and postponing decision-making on future liberalization until the year 2001. However, because the amendment, in fact, maintained the status quo in the postal services sector, a number of member states – including the Netherlands – refused to accept the German-French amendment. Since those members were not able to produce a qualified majority in support of the original proposal of the Commission, but had enough votes to block the German-French amendment, decision-making in the Council was deadlocked. After lengthy negotiations, most member states reached agreement on a compromise that included, in addition to the German-French amendment, also a tight timetable for decision-making on further liberalization. A qualified majority finally endorsed a revised text of the proposed directive. Only the Netherlands, Sweden and Finland voted against this final version. Thus, the final outcome of the bargaining in the Council over a proposal to open up the EU postal markets can be considered a defeat for the Netherlands, which pushed for more radical liberalization of the national post systems.

The results of these four case studies are summarized in Tables 5 and 6.¹⁵ By

comparing the four cases – the ordering of the factors does not suggest a hierarchy of influence among them – we may draw some conclusions regarding the conditions that help to explain success or failure of a small state, such as the Netherlands, in EU negotiations. As is illustrated, being a small country may not induce success in Brussels, but it does not prevent success in Council negotiations either. In two of the four cases, the Dutch were quite successful in obtaining the desired outcome. But the two ‘failures’ also reveal one of the informal rules of the game in Council negotiations, namely that when QMV applies, member states find it more difficult to overrule large states than smaller states. As the case of the liberalization of postal services clearly illustrates, most member states wanted to avoid imposing a directive on France that it found unacceptable, and were ready to accommodate the French position. In those cases where the Dutch were ‘successful’, much of the credit has to go to Germany, which shared the Dutch position. Thus, being a large state is clearly an advantage in Council decision-making, and small states have to compensate for their size by building a coalition with a large state.

The Netherlands, quite generally, has a fairly centralized coordination system for the preparation of its negotiation position at all EU levels, but the four cases described here differ in the way the government was able to benefit from the system of national coordination.¹⁶ In the case of *Agenda 2000*, a major effort was made to maintain a firm grip over Dutch negotiators at all Council levels, by means of a very tight inter-ministerial and intra-ministerial coordination in The Hague (as well as in Brussels). During the *Agenda 2000* negotiations, it helped to ensure that Dutch negotiators would stick to the agreed negotiating position: a freeze of the EU budget in real terms, keeping increases in budget payments in line with inflation. The relatively tight coordination contributed to the cohesiveness of the position of the Dutch negotiators in all the meetings where EU expenditure was discussed; in Council working groups, COREPER and the various compositions of the Council. Although the TEU and *Agenda 2000* were not decided on the basis of QMV, the support the Dutch delegation received from their partners for their position was decisive, in both cases, in the extent of Dutch leverage.¹⁷ In fact, the extensive support the Dutch delegation managed to receive from Germany, and the building of a broad coalition of net-payers, which included, in addition to the Netherlands and Germany, Sweden and Austria, is certainly important when explaining the Dutch achievement with respect to *Agenda 2000*. Because Germany shared the Dutch views, many Dutch requests could be presented as German-Dutch demands. During the whole period of negotiations over *Agenda 2000*, the Dutch State Secretary for European Affairs, who coordinated the Dutch efforts, maintained a very close relationship with the German government. This close relationship became even more crucial when Germany took over the EU presidency in the final stage

of the negotiations over *Agenda 2000*. Hence, the key elements of the *Agenda 2000* package which the German Chancellor discussed with the other European heads of state and government during an informal summit meeting in Bonn in March 1999 (just before the European Council meeting in Berlin) were in fact German-Dutch demands: setting an overall ceiling on spending on Common Agricultural Policy (CAP) subsidies; setting a similar ceiling on regional funding; and determining whether countries in the Euro zone should qualify for aid from the special regional fund (*European Voice* 4-10 March 1999: 16). Close cooperation between the Dutch and the Germans also helped the Dutch benefit from the close relationship between Germany and France, as agreement between these two large countries was essential to the final compromise reached in Berlin.

The presence of other conditions may also help explain the Dutch leverage in the *Agenda 2000* example. Were the Dutch strongly involved in the process of pre-negotiation? Very important in this respect was a report drawn up by the European Commission on the financing of the EU, in particular *Agenda 2000*, which confirmed the Dutch claim that its net contribution was ‘excessive’. The Dutch also exercised leadership during the negotiations in COREPER, the Council of the EU and the European Council in the framework of this case. The permanent representative, the Minister of Finance and the Prime Minister all appear to have managed rather well to present their insistence that the need to cut down EU expenditures was a strategy serving the interests of the EU as a whole. Dutch negotiators were able, in essence, to make their position acceptable to other EU members by using bargaining tactics, including threatening to use, and actually using, their veto to block Council decision-making with respect to any further spending plans. Moreover, they secured the endorsement of the necessary budgetary cuts by making concessions with respect to the timing and the extent of them. It seems that the other member states were somewhat surprised by the Dutch attitude, as they did not expect the Dutch to act alone on this issue. In these negotiations, the Dutch government also exploited the broad domestic political sentiment that targetted the perceived excessive Dutch payment to the EU budget. The Dutch negotiators argued that they were unable to explain to their taxpayers why they had to finance a growing contribution, while richer member states contributed less (*The European Union in 1999*: 27).

The presence of the conditions as indicated in Table 6 may also help explain the ‘success’ of the Netherlands in the case of the liberalization of the inland waterway transport market. The way the Dutch government coordinated its negotiation positions in Brussels indeed helped the Dutch policy makers and officials who were involved in the negotiations over the liberalization of the inland waterways transport market to keep a tight control over the handling of this dossier. It was considered to be an important issue. It is also evident that

the backing by both Germany and France in this case was essential in overcoming the opposition of the United Kingdom to EU financial support for the scrapping operation. Dutch officials had close contacts with their counterparts in Germany, Belgium and France, and the Dutch Minister of Transport directly contacted his counterparts in Germany and Britain before crucial Council meetings, in order to gain their support for the Dutch position or at least to overcome the British opposition.

Helpful to this achievement was also the flexibility of the Dutch bargaining position. Dutch negotiators did not stick to their original bargaining position, and had a 'fall-back position'. To secure the EU's contribution to the funds for financing the scrapping operation, the Dutch representatives changed their original demands, thus preventing the formation of a blocking minority that could reject the supplementary regulations in the Commission's proposal. The Dutch representatives accepted an amendment to the original proposal, which made a compromise possible that was, however, still beneficial to the Dutch government. Dutch officials were also involved in all the pre-negotiation stages. High-ranking officials from the Ministry of Transport, responsible for the inland waterways policy, participated in several informal high-level meetings organized by the Commission in 1994 and 1995, where Commission officials consulted those member states most concerned before the proposed directive was submitted to the Council. Moreover, a Dutch official from the Ministry of Transport was seconded to the Commission for a while to help the relevant directorate prepare the necessary reports and legislation. It gave the Dutch representatives an opportunity to gain indirect access to the decision-making process within the EU, as well as a chance to leave their fingerprints on the draft regulation. The Dutch government also skillfully exploited the expected opposition from Dutch ship owners to liberalization if such a measure would not be paralleled by financial support, to ease the hardships of liberalization.

The absence of many of these conditions in the case of the failed introduction of the Dutch TEU draft treaty and the case of the liberalization of postal services may help to explain the lack of leverage in these two cases. As mentioned above, being a small state is certainly not an advantage in Council decision-making. Although member states make a real effort to reach a consensus before an intergovernmental decision is taken, even when QMV applies, this appears to apply less when a small state is an obstacle to such consensus. In the case of the Dutch TEU draft treaty, the Dutch Presidency was simply asked to take back its own draft, and to continue the negotiations on the basis of a former draft treaty, which had already received relatively broad support. In the case of the liberalization of postal services, a qualified majority of member states finally overruled the opposition of the Netherlands, Sweden and Finland to the proposed revision of the originally proposed directive. In

the case of *Agenda 2000*, the Netherlands was not able to benefit from a centralized coordination system: the coordination of the national negotiation position was, in fact, rather loose. This was a result of inter-departmental and intra-ministerial personal differences between policy makers in the Ministry of Foreign Affairs in The Hague and the Dutch Permanent Representation in Brussels (see also Duff, Pinder & Pryce 1994: 48). Divisions concerned the preferred negotiation position, and the interpretation of the positions of other member states.

Moreover, it appears that the Dutch policy makers in The Hague who formulated the new TEU draft treaty did this essentially in isolation and to a certain extent in 'secrecy'. Although they exchanged views with officials in the Commission and some member states during the preparation process of the new draft treaty, and felt that they could count on some support, it appears that they nevertheless played their cards close to their chest: several partners were rather surprised and even irritated when the complete new draft treaty was presented at a rather late stage of the negotiations within COREPER and the Council. The initial support from some member states quickly eroded in face of the fierce opposition from a large number of member states, because no serious effort was made to build a coalition in support of the new draft treaty. The almost isolated position of the Dutch in the Council during the decision-making process over their TEU draft forced the Dutch government to withdraw its proposal. Given the traditional Dutch support for a supranational EU structure, it was not possible to use a critical domestic constituency as a bargaining chip in the intergovernmental negotiations. Similarly, the fact that the Netherlands occupied the presidency was of no specific help to the Dutch negotiators. It made it easier for the Dutch to table a new draft treaty, but the other member states were rather quick in their own demands to replace the new proposal by the former draft treaty.

The case of the liberalization of postal services also indicates how crucial it is for a small member state to be a member of at least a blocking coalition if it wants to be successful in Council negotiations. As long as the Netherlands formed a blocking coalition with Sweden, Finland, the United Kingdom, Denmark and Austria, it could prevent a vote on the German-French amendment, and force the French to make some concessions. Thus, the involvement in pre-negotiations, and the effort that was made to build a coalition of like-minded states in favour of liberalization faded away the moment the blocking minority coalition eroded and turned into a simple minority. The Netherlands, as well as Sweden and Finland, lost their bargaining power, and were quickly outvoted.

These four examples certainly cannot provide a full-blown analysis of the factors conducive to the relative leverage of governments on Council decision-making. But they may illustrate trends, in accordance with our earlier analysis

and attempt at structuring relevant factors, that may partially explain why actors were relatively successful or not in respective negotiations. Several more case studies, concerning key decisions for other member states, might be conducted that can shed more light on the relevance of such factors.

4 Conclusions

In this study, we aim to provide an overview of elements that influence the relative 'success' of EU governments in intergovernmental negotiations, especially in the framework of the Council, COREPER or working groups linked to the Council. There are nine main factors that we believe to be of specific relevance in this context: the relative size or weight of an EU member state; the extent to which the national negotiation position is coordinated domestically; membership of potential winning or blocking coalitions; the flexibility of a delegation's negotiating position; involvement in the pre-negotiation stages; whether a delegation can exercise leadership in bargaining processes; the use of specific bargaining tactics; using the Council Presidency to advance domestic concerns; and, finally, the extent to which negotiators are faced with a critical domestic constituency.

By applying these to four cases involving the relative success of the Dutch government in intergovernmental EU negotiations, we have tried to obtain indications on whether these factors may indeed have been important in practice. We find that in the four cases we summarize, there were quite significant differences in the extent to which the various factors were present. The presence or absence of such factors may indeed help to explain why the delegations were able to achieve bargaining outcomes close to their own preferences in two cases (cuts in domestic contributions to the EU budget, and a significant financial contribution from the EU in the restructuring of its inland shipping sector), but not in the other two cases studied (the introduction of a modified treaty that would have abolished the three-pillar structure; and agreement on some important measures regarding the liberalization of postal services in the EU).

Intergovernmental negotiations and negotiating behaviour of government representatives will certainly also be central in the EU's future. Although the EU's institutional framework has been changing rather rapidly in the recent past, and power has shifted to other institutions and actors – especially to the EP – we still believe that the representation of EU governments' interests will remain a crucial element in EU decision-making. From the perspective of domestic governments, it will hence be important to see what strategies may be chosen to try to enhance their leverage on decisions as taken in the Council. There is little doubt that governments will try to set the agenda, by influencing

the drafting of Commission proposals at an early stage. But, with increased EU membership, it may also be particularly important to form coalitions with other EU governments. Whereas some of these coalitions may be relatively 'stable', we nonetheless expect that coalitions – either winning coalitions or blocking coalitions – will shift in terms of membership according to the subject area under discussion. In other words, we expect several factors, from the attribution of new voting weights to bilateral and multilateral pre-consultations, leadership and general bargaining tactics to be essential elements that influence the extent to which governments may make their 'voice heard' in the framework of the EU's intergovernmental bargaining process, also in the framework of a Union that encompasses several more member states.

Notes

1. For an (early) assessment of intergovernmental negotiations in the Community, see Wallace (1985). For a more recent analysis see Hayes-Renshaw and Wallace (1997).

2. Another expression for 'package deal' is that there is issue-linkage. On package deals in the Union more generally, see Weber and Wiesmeth (1991).

3. When the 'Ioannina compromise' applies, 23 votes may even be sufficient to ensure further negotiations on the issue are conducted in the Council.

4. Although we will draw on the experience and knowledge of experts, we will not disclose their names or functions (as preferred by those interviewed).

5. These factors are mainly derived from the literature or personal interviews with participants in Council decision-making.

6. On effects of a double-majority clause, see for example Hosli (1995).

7. Since Nice, the formula is $v = 2.33 p^{0.534}$.

8. On these options and their repercussions compare Hosli (2000).

9. For an analysis that attempts to link a model of interest group behaviour to members' preference structure and leverage in the Council, see Bilal and Hosli (2000).

10. For a comparison of such options, as well as the possible introduction of a 'double-majority clause', see Hosli (2000).

11. This sole right of initiative applies only to proposals related to policy areas that fall under the First Pillar of the Treaty on European Union, however. Also note that the EP has obtained an indirect right of initiative in the Maastricht Treaty.

12. For an early analysis of logrolling see Tullock (1976).

13. The concepts of 'history-making' decisions and 'policy-setting' decisions are borrowed from Peterson and Bomberg 1999.

14. See: Commission of the European Communities, COM (95) 199 def. Brussels, 23.5.1995; see also *European Voice*, 30 January 1997, p. 19.

15. These tables draw heavily on George's presentation of conditions that favour coercive diplomacy (George 1993: 87; George & Simons 1994: 288).

16. For a description of the way the Dutch prepare their national negotiation position in Brussels see: Soetendorp (1999) and Soetendorp (1998).

17. Note that in both cases, forming a blocking minority is somewhat different from the notion used above in the context of QMV, as in the instances described here, unanimity among the member states was required for proposals to be accepted.

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The Impact of Third Party Presence in Survey Interviews on the Measurement of Political Knowledge

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Abstract

This article evaluates whether and to what extent the presence of third parties during the survey interview biases the measurement of the respondent's political knowledge. Three specific hypotheses about the effect of third party presence on the measurement of political knowledge are formulated and tested on the data of the Flemish part of the Belgian general election study of 1991. The hypotheses are only supported for the female respondents (interviewed in the presence of a male third party) but not for the male respondents (interviewed in the presence of a female third party): female respondents interviewed in the presence of an interfering and informed third party gave more correct answers and less 'don't know' answers to 12 political knowledge questions than female respondents for whom such a third party was not present.

1 Introduction

According to usual survey interview rules the presence of third parties during an interview should be avoided at all times (e.g., Sudman & Bradburn 1974; Blair 1979). Although research results on the impact of third party presence on the respondents' answers are often inconclusive and even contradictory, three reasons can be given for this maxim (Hofhuis 1995). First of all, the presence of a third party could bias the measurement of the respondent's knowledge about certain issues. After all, two persons have more knowledge than one person. The measurement could, therefore, not only represent the knowledge of the respondent but also – or, in extreme cases, only – the knowledge of the third party present during the interview. Second, the presence of a third party is an encroachment on the privacy of the interview situation. This might lead the respondent to try to project a more positive image of him or herself to the interviewer and the third person. Therefore, the presence of third parties might cause respondents to give more socially desirable answers or answers that are desirable in the given situation (see, for instance, Taietz 1962; Aquilino 1993; Smith 1997). Finally, the presence of a third party could have an effect on the reference frame of the respondent, in