Everyone's a winner (almost): Bargaining success in the Council of Ministers of the European Union

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Everyone's a winner (almost): Bargaining success in the Council of Ministers of the European Union

James P Cross
European Politics group, ETH Zurich, Switzerland

Abstract
This paper examines member state bargaining success in legislative negotiations in the European Union. Bargaining success is thought to be determined by factors attributable to intervention behaviour, relative policy positions and power. Intervention relates to a member state's efforts to make its position known over the course of negotiations, relative policy positions relate to a member state's position in the policy space under negotiation relative to other actors' positions, and power refers to the size of the member state. New measures for bargaining success are introduced that account for the saliency of the legislative proposals under consideration. The results presented suggest that there are more winners than losers when measuring bargaining success.

Keywords
Actors and institutions, bargaining, Council of Ministers, decision-making, legislative studies

Introduction

This article seeks to explore the factors that determine member states' legislative bargaining success in the Council of Ministers of the European Union (EU). A member state's ability to influence legislative negotiations taking place within the Council of Ministers is of central importance if it is to successfully participate in and contribute to the ever widening and deepening set of rules that govern the

Corresponding author:
James P Cross, Center for Comparative and International Studies, ETH Zurich, IFW D45.2, Haldeneggsteig 4, CH-8092, Switzerland.
Email: james.cross@eup.gess.ethz.ch

EU as an international organization. Legislation decided at the EU level has a profound effect at the domestic level, where member state governments must implement it and citizens must comply with it. As the EU has evolved over time, the scope of legislation has increased and the legislative decisions reached at the EU level now affect such disparate issue areas as agriculture, justice and home affairs, and foreign policy. This article seeks to explore whether or not differences in member state negotiation strategies affect the relative bargaining success of the member states involved.

A number of existing studies have addressed the question of what determines member state bargaining success in the EU. Bailer (2004, 2011) examines the role that exogenous power resources, such as voting power and economic strength, and endogenous power resources, such as the extremity of an actor's policy position and the relative policy positions of important institutional actors such as the Commission, have upon a member state's bargaining success. Bailer (2004) finds that exogenous power resources lead to bargaining success only in certain policy fields, whereas endogenous power resources lead to bargaining success across all policy fields. Arregui and Thomson (2009) and Thomson (2011) also address this question, and find that, although there are large differences in bargaining success between member states on individual proposals, there are no *systematic* differences between winners or losers in terms of bargaining success. Golub (2012) finds a number of conceptual and methodological problems with these studies because they do not account for issue saliency when measuring bargaining success, and they do not utilize appropriate statistical methods when examining differences in bargaining success across member states. He concludes that significant differences in bargaining success do exist, but his article is limited to proposals decided upon before the 2004 enlargement. A research note by Duer (2008) draws attention to the role of interest groups in influencing policy outcomes and suggests they play an important role in negotiations despite the relative lack of attention they have received in the literature owing to methodological difficulties in studying their influence.

A related set of literature attempts to predict legislative outcomes at the macro level by utilizing game-theoretic models of the legislative process and the initial positions, power and saliency of the issues under consideration (Schneider et al., 2010; Thomson et al., 2006). A large number of different models have been tested with varying degrees of predictive accuracy. In general, models that emerge from the bargaining literature and consider power resources and policy preferences (Achen, 2006; Schneider et al., 2010) perform better than those that consider the institutional structure to be the most important determinant of negotiation outcomes (Crombez, 1996; Steunenberg and Selck, 2006). This literature points to many of the variables considered at the individual member state level in this article, such as the role of power, saliency and policy positions in determining legislative outcomes.

This article seeks to build upon these existing studies by considering member state interventions in the negotiation process, alongside the factors that have

already been investigated. Member state interventions in the negotiation process refer to direct statements made during negotiations to signal policy positions. This aspect of legislative bargaining in the EU has received relatively little scholarly attention to date, owing to the difficulty of acquiring data concerning which member states are actively pushing their policy positions at different stages in the negotiation process. A second contribution of the article is that it further explores Golub's (2012) measure of bargaining success, which accounts for the saliency that member states attach to the issues and proposals under negotiation for cases after the 2004 enlargement. Issue saliency is important to consider when examining bargaining success because it provides an estimate of the relative importance to the actors involved of the issues under consideration, yet it has been neglected to date in the literature on member state bargaining success. The findings presented suggest that accounting for saliency in the measure of bargaining success significantly affects the substantive importance of many of the variables found to affect member state bargaining success. It is found that a combination of factors relating to negotiator interventions, the constellation of negotiators' initial positions and relative power help to explain member states' relative bargaining success, but the exact effects of these factors depend upon how bargaining success is conceptualized.

Theoretical framework

This article positions itself firmly in the rational choice institutionalist school of thought and utilizes a spatial conceptualization of legislative negotiations in order to capture actor positions and explain bargaining success (Downs, 1957).[1] This approach has generated extensive insight into the inner workings of political systems and provides a framework in which one can understand institutions and their interactions with actor preferences to produce political outcomes (Thomson and Hosli, 2006; Ward, 2002). A spatial conceptualization of negotiations allows one to map the constellation of actors' initial positions across different issues that arose during negotiations for the proposals under consideration. It provides a framework for comparing actor positions relative to one another and to the decision outcomes decided upon, and it is therefore suitable for the analysis of bargaining success.

Before the factors that determine a member state's bargaining success can be examined, the meaning of bargaining success in the context of EU legislative negotiations must be defined. Previous studies have measured member state bargaining success as the absolute distance between a member state's initial policy position and the final outcome on individual issues that arose during negotiations for different proposals, with member states that have policy positions closer to the final outcome enjoying greater bargaining success (Arregui and Thomson, 2009; Bailer, 2004, 2011). They define an initial policy position as an actor's most preferred policy alternative just after the introduction of the Commission proposal,[2] and the final outcome is the decision reached at the conclusion of negotiations.

For the purposes of this article, two distinct formulations of member state bargaining success will be considered. In the first formulation, and building explicitly upon previous research, bargaining success is considered on an issue-by-issue basis without accounting for issue saliency. This approach assumes that controversies are negotiated independently of one another, and it is useful because it simplifies the bargaining space by dividing it into distinct independent dimensions along which member states can be more or less successful in bargaining.

One weakness of this approach to measuring bargaining success is that it fails to take account of the intensity of member state preferences over the issues under negotiation (Junge and Konig, 2007). This article argues that ignoring this aspect of member state preferences overestimates the level of utility losses suffered by those with policy positions far from the final outcome. In many cases, those far from the outcome had little interest in the issue under negotiation in the first place, and a measure that does not take this into account fails to capture these differences in preference intensity. In order to examine whether issue saliency mediates the utility losses associated with particular negotiation outcomes, I employ a saliency-weighted measure of the distance between initial positions and final outcomes. A comparison between this measure and the unweighted measure will clarify the role of issue saliency in the negotiation process.

One potential issue with measuring bargaining success in this manner is that luck and influence could be confounded (Barry, 1980). The idea here is that negotiators who end up close to the decision outcome might have done so owing to the fact that they influenced negotiations in their favour, or they might have done so purely by luck. This problem is ameliorated in two ways in the current article, in line with Schneider et al.'s (2010) arguments. Firstly, it is unlikely that any one actor's luck will be maintained across all 14 proposals and 30 issues that the article considers. Luck, after all, should be randomly distributed across all actors and enter the bargaining success measure as random error. Secondly, the models used to predict bargaining success consider a combination of power- and preference-based variables, in line with Barry's recommendations. The potential issue with regard to confounding luck and influence is thus avoided.

This article argues that the factors that determine a member state's bargaining success can be divided into three distinct categories; those attributable to actor intervention activity; those attributable to the relative initial positions of each actor; and those attributable to differences in member state power. Factors relating to intervention behaviour include the number of interventions a member state makes during negotiations and the level within the Council at which these interventions are made. Factors relating to the constellation of initial policy positions include a member state's policy position relative to other positions of importance in negotiations. Finally, a measure of the relative size of member states within the Council accounts for member state power. Each of these factors will be explored in turn, and the effect that they are expected to have on member states' bargaining success will be outlined.

Negotiator interventions

One of the innovations of this article is that it reveals the role that member state interventions play over the course of negotiations and estimates their effect upon bargaining success. An intervention is defined as any explicit statement of disagreement with the Commission proposal as it stands that a member state makes at a Council meeting during the negotiation process.[3] Making interventions of this type during negotiations is a very direct way in which member states can make their policy positions known to other actors in the negotiation process.[4] Previous studies have tended to conflate member state effort in the bargaining process with the saliency they attach to the issues under negotiation (Arregui and Thomson, 2009; Bailer, 2004, 2011). This article differentiates between the two by arguing that saliency represents the intensity of member state preferences over outcomes (Achen, 2006; Hinich and Munger, 1997; Junge and Konig, 2007), whereas interventions represent the realized effort member states put into affecting the legislative process. Issue saliency is conceptualized as member states' utility valuation of realizing a particular outcome. This value is realized only once an agreement is reached and is thus relevant to the dependent variable (bargaining success). Interventions, on the other hand, are relevant to the realization of an outcome through negotiation effort, and can thus be thought of as an independent variable. The article operationalizes member state effort by providing a direct measure of member state interventions over the course of negotiation. It is thus possible to assess whether interventions during negotiations are an effective way to influence decision outcomes in the Council.

Cross (2012) examines the determinants of member state interventions in detail and finds that the most important determinants of member state intervention behaviour were the structural aspects of the policy space under negotiation and the location of other actors in this policy space. This article develops upon those findings, by examining whether or not member state interventions are positively or negatively associated with the relative bargaining success of the member states involved.

It might of course be the case that interventions themselves are related to saliency, and Cross (2012) finds some evidence that this is the case. This raises the question of whether there is an endogeneity issue with regard to the inclusion of the interventions variable. Interventions have a .18 correlation with saliency, suggesting that endogeneity is not a major issue here. It was decided to include the saliency measure as part of the dependent variable rather than the independent variable because saliency essentially designates the utility value of distances on the policy scales under consideration. In essence, I am rescaling the policy scales to examine utility outcomes, which makes conceptual sense when the focus is upon bargaining success. One of the contributions of this article is to move beyond positions to look at utilities, and that contribution is worth the risk of endogeneity. Saliency thus seems more relevant than intervention behaviour to the measurement of bargaining outcomes.

When examining the role that member state intervention behaviour plays in determining member state bargaining success, two distinct logics for their use are possible. The first logic holds that interventions are proactive and member states make them in order to directly influence the negotiation process in their favour. The second logic motivating member state interventions holds that they are reactive and seek to express member states' dissatisfaction with the outcome that is expected to prevail. The observable implications of each of these logics are different and are now explored.

If member states intervene in a proactive manner, then their role is to influence negotiation outcomes directly by making policy positions known to other negotiators. Member state negotiators seek to influence the content of the proposal under negotiation and to have their policy positions reflected in the final agreement by making their policy positions known on a particular issue. If member state interventions are proactive and used to positively influence member state bargaining success in this manner, one would expect that member states that make more interventions tend to have more bargaining success.

H1a: Member states that make more interventions will have more bargaining success.

In contrast to the proactive logic of member state interventions, should interventions be used reactively one would expect that member states tend to intervene when negotiations are not proceeding in their favour. Interventions then act as a way in which member states can register their unhappiness without negatively affecting the progress of negotiations through the use of vetoes or abstentions. This argument has some precedence in the study of the legislative process in the EU. Hagemann (Hagemann, 2008) examines member states' formal statements entered in the Council records at the final stage in negotiations and finds that member states use such statements to record their opposition to a piece of legislation without having to abstain or vote against the legislation when it comes to the vote. Such statements are reactive and are made in full knowledge that negotiations are not proceeding in their favour and that the statement is unlikely to change the final outcome. There are clear parallels between the role of formal statements in these arguments and the possible role of member state interventions within the Council. Interventions provide another route through which member states can register their discontent without obstructing the negotiation process.

H1b: Member states that make more interventions will have less bargaining success.

Relatively little attention has been paid to the role that the internal structure of the Council plays in determining decision-making outcomes. This article seeks to address this gap by accounting for how the level at which an intervention is made influences the effectiveness of this intervention. There are three distinct levels of decision-making in the Council, ranging from the lowest working group level, through the intermediate level of the Committee of Permanent Representatives

(COREPER), right up to the Council of Ministers.[5] Member state negotiators can take explicit positions on controversies that arise within a proposal at any of these levels of negotiation within the Council. It is expected that the effectiveness of a member state's intervention will depend on the level at which the intervention takes place.

It was previously thought that working groups dealt mainly with the 'technical' details of the proposal and left the 'political' aspects to more senior bodies in the Council, but this view has recently been challenged. Fouilleux et al. (2005) claim that no clear distinction can be drawn between the 'technical' and 'political' aspects of negotiations that working groups undertake. In a more recent article, Häge (2007) finds the opposite, with bureaucrats generally deciding the less salient and more complex proposals. Member states can also attempt to influence negotiations in COREPER. Cross (2012) demonstrates that the working group and COREPER levels of negotiation play very important roles in Council decision-making but that there seem to be important differences in the manner in which decisions are made at each level within the Council. If significant differences are observed in the substantive size of the effect that interventions have on member state bargaining success, depending upon the level within the Council at which interventions are made, this will add further weight to the claim that fundamentally different processes are at work at each level. This article will therefore differentiate between interventions made at the working group and COREPER levels and examine how their effectiveness varies between different Council levels.

H2: The effect of member state interventions on bargaining success will vary depending upon the level within the Council at which the intervention is made.

The constellation of initial policy positions

At a fundamental level, negotiations are shaped by the constellation of initial positions that negotiators take at the outset of negotiations. Initial positions provide a picture of how close or far apart negotiators are with regard to reaching agreement on a legislative proposal. This is the case whether or not a stated position represents an underlying preference or a strategic effort to extract concessions because, even when positions are strategic, they influence other negotiators' perceptions of the policy space. They structure negotiations by defining the issues around which negotiations proceed (Ringe, 2005). In order to account for this aspect of bargaining success, we consider the proximity of a member state's policy position to a number of important positions within the policy space.

The first set of policy positions in the negotiation space that need to be considered are those of the other member states. The relative extremity of a member state's policy position, compared with those of the other member states, is an important factor to consider when explaining bargaining success. Arregui and Thomson (2009) argue that, because EU legislative negotiations are characterized

by 'cooperative and inclusive modes of interaction' that shape decisions, outcomes tend to be a compromise between actors. This view of the legislative process has found support in the empirical literature, which finds that legislative outcomes can be predicted using a Nash bargaining solution (NBS) model (Schneider et al., 2010). A number of different variants of this model that account for policy preferences, actor power and issue saliency have been explored and in general are found to predict legislative outcomes quite well. If the NBS can successfully predict decision-making outcomes within the Council, then member states with more extreme bargaining positions should be less successful in bargaining. This is owing to the fact that cooperative modes of interaction are thought to lead to compromise solutions located between member state positions rather than at the extremes.

H3: Member states with more a extreme policy position relative to that of other member states will have less bargaining success.

The policy position of a member state relative to that of the European Parliament (EP) is another factor that may affect its bargaining success. Under the codecision procedure, the EP has become more and more important in the legislative process over recent years, with a series of treaty revisions increasing its power to affect decision-making outcomes (Crombez, 2001; Napel and Widgrén, 2006). Given the important role of the EP in EU decision-making, having a policy position close to that of the EP is likely to increase a member state's bargaining success, because the EP is likely to heavily influence outcomes.

H4: Member states with policy positions closer to that of the European Parliament will have more bargaining success.

A second institutional actor whose policy position is likely to matter in determining bargaining success is the Commission. The Commission, as proposer of legislation, is thought to have a significant influence over decision-making outcomes (Pollack, 2003). Commission power stems from the fact that the Commission is the sole actor with proposal capabilities, which give it significant agenda-setting power. Once the Commission puts a proposal forward, the voting rules within the Council are thought to determine the extent of the Commission's agenda-setting power. Under the codecision procedure, the exact role of the Commission is a matter of debate within the academic literature. Some argue that the Commission has significant agenda-setting capabilities (Crombez, 2003; Steunenberg, 2001), whereas others contend that, because the Council and the EP can reach an agreement independently of the Commission, this mitigates the Commission's agenda-setting power (Tsebelis and Garrett, 2000). A number of empirical studies have assessed the influence of the Commission over legislative negotiations and have found that, in spite of the fact that codecision decreases the formal power of the Commission, its policy position still has a significant influence

over negotiation outcomes (Thomson and Hosli, 2006). As a result, member states with policy positions close to that of the Commission should have increased bargaining success.

H5: Member states with policy positions closer to that of the Commission will have more bargaining success.

The final variable relating to policy positions that is thought to affect bargaining success is the distance between a member state's policy position and the status quo. The status quo is thought to play an important role in the decision-making process in the Council because it represents the state of affairs that would hold if actors fail to reach an agreement on the proposal under negotiation. The status quo should be influential in determining a member state's bargaining success owing to a veto players type argument (Tsebelis, 2002). Conservative member states with positions close to the status quo will seek to block the progress of legislation; if they are successful, then having a policy position close to the status quo will increase a member state's bargaining success.

H6: Member states with policy positions closer to the status quo will have more bargaining success.

Power

Another factor thought to influence legislative bargaining success is related to member states' relative power. The concept of power has received a large amount of scholarly attention in the EU context. For the purposes of this article, member state power is measured using the proxy of their relative size in terms of population (Arregui and Thomson, 2009; Bailer, 2004).[6] Larger states are expected to have greater access to resources that can be used to influence bargaining outcomes. This might take the form of having the economic resources to offer side payments in return for support on a particular proposal or having the bureaucratic resources to engage in lobbying others involved in the negotiations.

H7: Member states with a larger population will have more bargaining success.

Research design

In order to examine the determinants of member state bargaining success discussed above, it was necessary to examine a selection of legislative proposals that were negotiated in the Council. The methodology used to collect these data is described in detail elsewhere (Thomson et al., 2006, 2012), so only a brief description of the process is included here.

A number of selection criteria were utilized to select these proposals, based upon the legislative procedure, the political importance of the proposal and the time period in which it was introduced and discussed. The proposals chosen were all decided upon using the codecision procedure and the qualified majority voting (QMV) rule. This was important because the formal role of the EP and the Commission (which varies across legislative procedures) and the formal power of each member state in the Council (which varies according to voting rule) had to be kept constant. Included are 14 separate proposals that the Commission introduced between 2004 and 2008. This time period was chosen because the Council documents recording member state interventions were most complete for this period. The proposals selected also had to have been of some political importance to the actors involved and had to have been subject to disagreement between these actors during negotiations. A minimal level of disagreement was necessary because there has to be conflict in order for variation in bargaining success to exist.

Information on the chosen proposals was collected through 88 semi-structured interviews with stakeholders involved in the negotiation. Interviews lasted on average about 90 minutes and interviewees included Commission officials, individuals from the EP and officials from member states' permanent representations. In these interviews, stakeholders were first asked to identify the most important controversies that arose during negotiations. They were then asked to identify and place the positions that were taken on these controversies on 101-point policy scales, and then place the actors involved on these policy scales. It was important that interviewees could justify the relative positions they identified through the provision of substantive reasoning behind their choices. Once positions had been identified, interviewees were asked about the saliency that each actor attached to the issue under negotiation. Substantive justification was again important here so as to get reliable estimates. Data were further validated by conducting multiple interviews with other stakeholders involved in the negotiation process. This approach to researching the legislative process in the EU is well established and has provided significant insight into the manner in which negotiations proceed and controversies are resolved. Important studies in this vein include a 2004 special issue of *European Union Politics* (vol. 5(1)) and Thomson et al. (2006). The dataset was recently extended to include new proposals following the 2004 enlargement (Thomson et al., 2012). Reliability and validity tests of the measures obtained can be found in Thomson (2006) and König et al. (2007). It is useful at this stage to provide an example of this research design at work in order to illustrate the data collection process.

Figure 1 represents an issue that stakeholders identified as having arisen during the negotiations for a waste disposal proposal introduced in 2005 (COD/0281/2005). The specific issue was whether or not the incineration of waste would be allowed as a method of waste recovery. A number of distinct positions were identified as having arisen during negotiations, which revolved around the energy efficiency of the incineration process as a classification mechanism for existing incinerators. The most conservative position in negotiations was not to classify

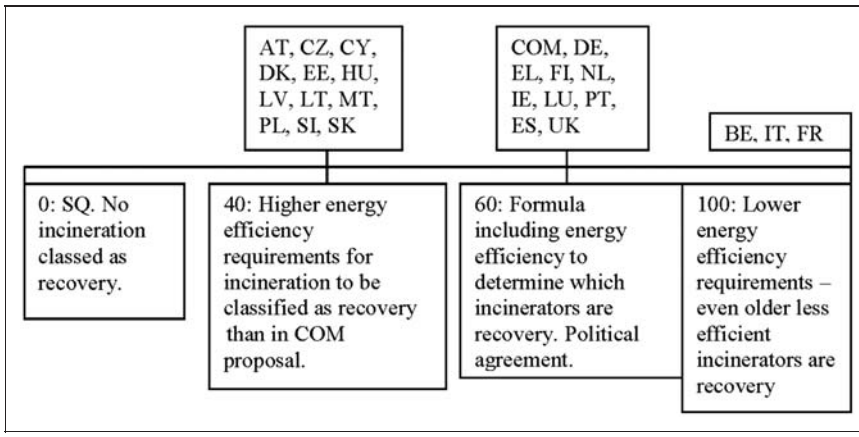

Figure 1. Actor positions on whether or not incineration can be considered a method for waste recovery for Directive 2008/98/EC of the European Parliament and of the Council of 19 November 2008 on waste and repealing certain Directives (2005/0281(COD)).

waste incineration as a type of waste recovery (position 0). This position represented the status quo (SQ), the case that would ensue should no agreement be reached in the Council. At the other extreme of the policy scale (position 100), the Italians, Belgians and French argued that incineration should be allowed and that relatively lower energy efficiency standards should be attached to the incineration process. The Commission and a number of member states were placed between these extreme positions at position 60: they advocated utilizing a formula to determine which types of incinerator could be classified as waste recovery. This was the agreement settled upon following negotiations. The final position of note on this particular issue was taken by the remaining member states (position 40), who argued for more stringent energy efficiency criteria to apply to the incinerators in order to be considered as waste recovery.

Each issue in the dataset is specified in this manner, which allows one to recreate a detailed spatial representation of the negotiations and the issues that arose therein. In total 30 issues were identified across the 14 proposals under consideration.[7] These data are then used to calculate the various variables of interest elaborated upon in the theory section above. In order to construct a measurement for bargaining success, it is assumed that states come to the negotiation table with a pre-existing set of policy positions that they wish to see included in the final legislative agreement. Heterogeneity among stakeholder policy positions leads to conflict and, in order to reach agreement, member states engage in bargaining so as to reach compromise solutions. As mentioned earlier, two distinct dependent variables will be utilized to measure bargaining success. The first measures bargaining success without accounting for issue

saliency: it is simply the absolute distance between a member state's policy position and the final outcome on a particular issue and is calculated using the following equation:

$$Bargaining\ success_{ia} = |x_{ia} - Outcome|$$

in which the bargaining success of actor a on issue i is the absolute distance between that actor's position x_{ia} and the final outcome.

The second measure captures bargaining success as the absolute distance between a member state's initial position and the final outcome weighted by the saliency each member state attaches to the issue under consideration. One must consider the differential impact that the saliency an actor attaches to each individual issue when one wishes to account for the utility implications associated with each particular outcome.[8] The contention that saliency is important in the construction of the dependent variable rather than an independent variable as found in previous literature (Arregui and Thomson, 2009; Bailer, 2004; Thomson, 2011) relates to Golub's (2012) point that it is relevant to an actor's utility function. The intuition behind this is that, because an actor values each issue differently, equal departures from his/her ideal point have different impacts on that actor's utility. The saliency-weighted measure of bargaining success is calculated using the following equation:

$$Bargaining\ success_{ia} = |x_{ia} - Outcome| * s_{ia}$$

in which the bargaining success of actor a on issue i is the absolute distance between that actor's position x_{ia} and the final outcome, multiplied by the saliency that actor attaches to his/her position, s_{ia}.

In order to identify the number of member state interventions at each level within the Council, the records of negotiations kept by the Council secretariat were analysed and the necessary data were extracted using computer-aided text analysis. Before a proposal was chosen, it was necessary to ascertain how complete the legislative records were with regard to that proposal. All documents associated with a proposal are recorded in the CONSILIUM agreements database, whether they have been made public or not. Any proposal with less than 80 percent of all documents available was excluded from the analysis in order to ensure that the number of interventions found reflected the overall effort negotiators made during negotiations. The extraction procedure involved creating a dictionary using the systematic labels attached to member states' interventions as tags, which can be detected using a dictionary-based concordance program (Watt, 2009).[9] Tags included official country abbreviations (DE for Germany, FR for France, etc.), the names of countries (Germany, France) and the associated adjectives (German, French). Once a member state tag was detected, the corresponding intervention was extracted from the document of interest and coded by the level within the Council at which the intervention took place. In total, 320 separate documents

across the 14 proposals of interest were examined. Member states were found to make on average just over five interventions per proposal at the working group level and just over three interventions per proposal at the COREPER level. The intervention data collected were found to be uncorrelated with the saliency data. This adds credence to the idea that these are distinct aspects of the bargaining process. These new data help establish a much more detailed picture of the process of negotiation that took place for the legislative proposals under consideration.

The variable measuring the extremity of a member state's position was created by calculating the distance between a member state's policy position and the average position of the other member states. Similarly, the distance between a member state's policy position and that of the EP and the Commission is calculated as the distance between those particular positions respectively. The variable measuring member states' power utilizes population as a proxy, is measured in millions and is taken from the Eurostat dataset (Thomson et al., 2006).[10]

Analysis

Before considering the factors that are expected to affect bargaining success, it is useful to compare the measures of bargaining success that I consider. Figure 2 compares the distribution of the unweighted and saliency-weighted measures of member state bargaining success. The *x*-axis represents the unweighted measure of

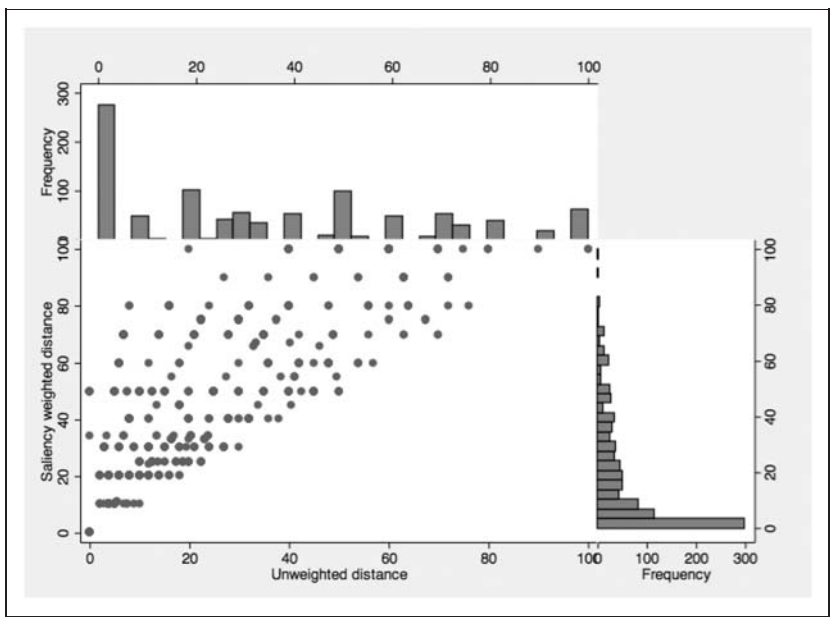

Figure 2. Comparing the unweighted and saliency-weighted measures of bargaining success.

bargaining success that can be found in the existing literature, while the *y*-axis represents the saliency-weighted measure of bargaining success introduced here. As can be seen, there is a significant difference in the distributions of these measures. In the picture of bargaining success found in the existing literature, the distribution of bargaining success is fairly even across the possible range, suggesting that, for any particular issue, some member states do very well and some not so well. This contrasts with the saliency-weighted measure of bargaining success, which is heavily skewed towards 0, suggesting that most member states do pretty well in terms of bargaining success when issue saliency is taken into account. The difference between these two distributions suggests that accounting for issue saliency gives a very different picture of the distribution of member state utility losses suffered when engaging in legislative bargaining. It also has implications for the appropriate statistical modelling strategy for each measure.

It is also useful to examine the relative differences in the bargaining success of each member state across all proposals in the dataset, before considering the determinants of this bargaining success. Figure 3 displays the mean bargaining success of each member state, with an associated 95 percent confidence interval for each measure of bargaining success. A number of important differences between the two measures of bargaining success are evident in Figure 3. Firstly, the group mean unweighted bargaining success for all member states is 32.63, whereas the group mean saliency-weighted bargaining success is 16.90, as represented by the vertical

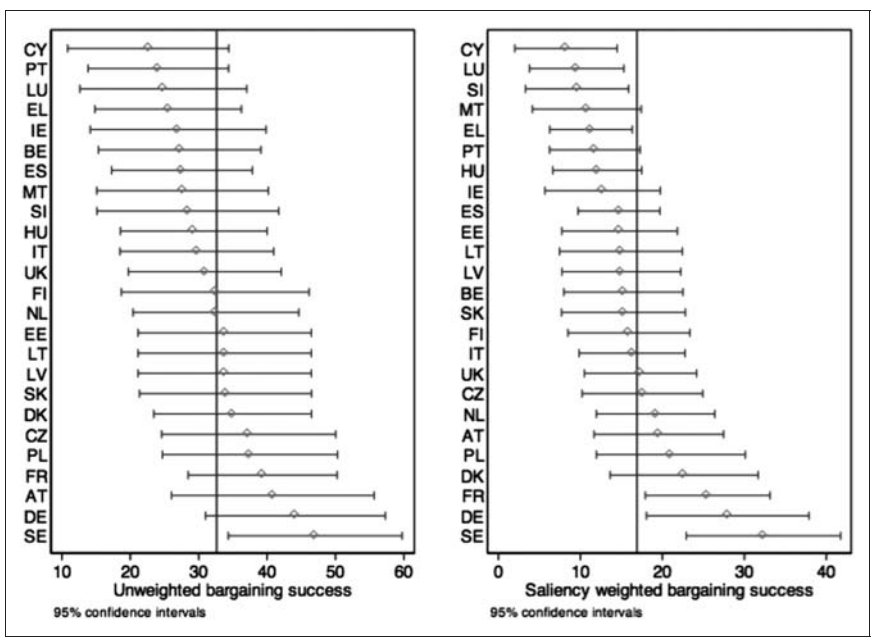

Figure 3. Mean bargaining success of each member state.

lines in each graph. Secondly, although there is little significant difference between member states' bargaining success across all issues when issue saliency is ignored, this appears not to hold for the saliency-weighted measure of bargaining success. In order to assess whether the mean bargaining successes across member states are statistically distinguishable from one another, a series of paired *t*-tests were carried out (Golub, 2012). The results of these tests add credence to the idea that accounting for issue saliency has an effect on the measure of bargaining success, making it much easier to distinguish between member states' bargaining success (see Web Appendix 4). For example, when issue saliency is accounted for, Cyprus has significantly different bargaining success from (and for the most part more than) all member states except Luxembourg, Portugal and Slovenia. In contrast, Sweden has significantly different bargaining success from (and for the most part less than) all member states except Denmark, France and Germany. These findings contrast with previous research that found no significant differences between winners and losers in the Council (Arregui and Thomson, 2009).

The distributions presented in Figure 2 have clear implications for the choice of statistical model to be employed when examining the determinants of bargaining success. Previous research has employed either ordinary least squares (OLS) with robust standard errors (Bailer, 2004) or multi-level models (Arregui and Thomson, 2009) to model the unweighted measure of bargaining success. Despite the somewhat questionable assertion that this measure of bargaining success is normally distributed, I shall employ an OLS model with robust standard errors in order to replicate these findings. In contrast to the unweighted measure of bargaining success, the saliency-weighted measure of bargaining success is clearly right skewed, with values below 0 impossible. This suggests that OLS is an inappropriate statistical model in this case. I therefore employ a generalized linear model (GLM) with a lognormal distribution to capture the relationship between the saliency-weighted dependent variable and the independent variables of interest.

A second consideration that must be accounted for when modelling the data is clustering of policy positions and, as a result, bargaining success within issues in the dataset. Two possibilities present themselves when accounting for this clustering. The first utilizes a clustered sandwich estimator to obtain standard errors robust to clustering within issues. The second employs a multi-level hierarchical model with individual member state bargaining success nested within each issue. Since the issue-level random intercepts are not of interest in the analysis, I decided to go with the simpler one-level model with clustering within issues. This ensures the model is robust to such issues.

Columns 1 and 2 of Table 1 present the results of the OLS estimation procedures (Models 1 and 2). These models consider the unweighted measure of bargaining success as the dependent variable. It should be noted that a positive coefficient implies an *increase* in the distance between a member state's policy position and the final outcome, and thus a *decrease* in that member states' bargaining success, and vice versa. In order to aid in interpretation, Figure 4 presents the substantive effects of the significant variables with associated confidence intervals when one moves

Table 1. Predictors of member state bargaining success

	Model 1 Unweighted DV	Model 2 Unweighted DV	Model 3 Saliency weighted DV	Model 4 Saliency weighted DV
Total interventions	–	0.0692 (0.141)	–	1.014*** (0.00357)
WG interventions	0.1000 (0.147)	–	1.013*** (0.00346)	–
COREPER interventions	−0.0561 (0.273)	–	1.015 + (0.00905)	–
Position extremity	0.372 (0.257)	0.370 (0.255)	1.018** (0.00591)	1.018** (0.00605)
Distance from EP	0.280** (0.101)	0.278** (0.100)	1.009* (0.00397)	1.009* (0.00394)
Distance from COM	0.256* (0.107)	0.259* (0.107)	1.008* (0.00343)	1.008* (0.00328)
Distance from SQ	−0.0104 (0.0902)	−0.00982 (0.0901)	1.000 (0.00235)	1.000 (0.00235)
Population	0.0949 + (0.0471)	0.0931 + (0.0457)	1.005* (0.00207)	1.005* (0.00210)
Constant	−3.290 (7.462)	−3.478 (7.430)	3.206** (1.215)	3.235** (1.216)
AIC	5863.8	5862.4	5229.8	5228.0
BIC	5899.4	5893.5	5265.4	5259.1
Log likelihood	−2923.9	−2924.2	−2606.9	−2607.0
N	633	633	633	633

Note: Models 1 and 2 were estimated using OLS with clustering on issues. Models 3 and 4 were estimated using GLM with a log link and clustering on issues. The coefficients of models 3 and 4 were exponentiated to aid interpretation. Robust standard errors in parentheses $+p < 0.10$, $*p < 0.05$, $**p < 0.01$, $***p < 0.001$

from the minimum to the maximum of each variable while holding the other variables at their mean.

The first two models (Models 1 and 2) that will be discussed utilize the unweighted measure of bargaining success as the dependent variable. With regard to interventions, it is observed that interventions made at the working group level or in COREPER have no effect on member state bargaining success. Similarly, when total interventions are considered, they are again found to have no effect on bargaining success. These findings provide little support for Hypotheses 1a, 1b and 2.

When one comes to consider the results associated with the distribution of initial positions, one finds that a member state's position relative to the EP and the Commission is statistically significant with positive coefficients, whereas position extremity and distance from the SQ variables are not significant. Each one-unit increase in the distance between a member state's policy position and that of the EP leads to a 0.278–0.280 increase in the unweighted distance between that member state's policy position and the final outcome. Substantively, if a member state is 100 policy scale points away from the EP, the unweighted distance between a member state's policy position and the final outcome increases by + 28.4 scale points compared with a member state with the same position as the EP. This finding lends support to Hypothesis 4 and suggests that the EP's policy position has a strong influence over the relative bargaining success of member states in legislative negotiations in the Council.

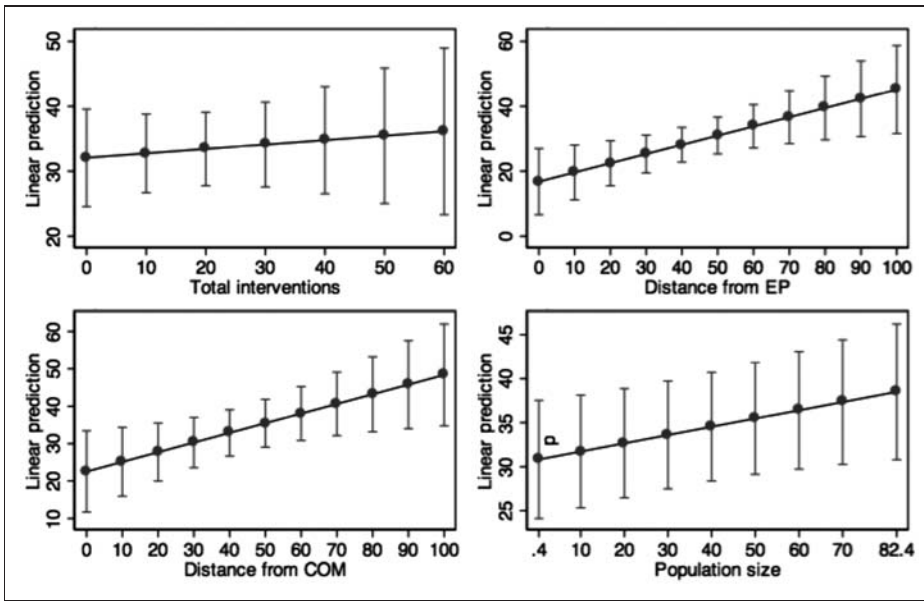

Figure 4. Substantive effects of chosen variables from Model 2.
Note: Adjusted predictions with 95 percent confidence intervals.

The policy position of the Commission is also seen to be influential in determining member state bargaining success. Each one-unit increase in the distance between a member state's policy position and that of the Commission leads to a 0.256–0.259 increase in the unweighted distance between a member state's policy position and the final outcome. If a member state is 100 policy scale points away from the Commission, the unweighted distance between a member state's policy position and the final outcome increases by +25.8 scale points. This finding supports Hypothesis 5 and suggests that the Commission has an impact on legislative negotiations, despite the fact that its formal decision-making power is limited relative to that of member states and the EP.

Differences in member state size in terms of population are also seen to have a weakly significant effect on bargaining success. Larger member states are predicted to have significantly less bargaining success than smaller member states. Each 1 million person increase in the population variable leads to a 0.0931–0.0949 increase in the weighted difference between a member state's position and the final outcome. The substantive difference between Malta, which has the smallest population (0.4 million people), and Germany, which has the largest population (82.5 million people), is not very large, with Germany experiencing a +7.69 increase in the unweighted difference between a member state's position and the final outcome, compared with Malta. This finding lends weak support to Hypothesis 7 and suggests that differences in member state size are somewhat important in determining

legislative bargaining success but the direction of the effect is surprising, given that larger member states have more a priori power than smaller member states.

Although the results discussed above give some insight into the determinants of member state bargaining success, they are predicated on the idea that issue saliency does not enter into the measure of a member state's utility from a particular outcome. Models 3 and 4 in Table 1 account for the effects of issue saliency on member states' utility function by weighting their bargaining success on a particular issue by the associated saliency measure. The results produced by these models differ significantly from those of the previous models and offer more support for the idea that interventions, relative policy positions and power all play a role in determining bargaining success. Note that the coefficients in the table are exponentiated so as to aid interpretation, given that a log-link is utilized in the models. Figure 5 again illustrates the substantive effects of the variables of interest to aid interpretation.

The first set of results to consider relate to the role of member state intervention behaviour. In contrast to the previous set of models, interventions are found to have a significant effect on bargaining success, with each extra intervention at the working group level leading to a 1.3 percent increase in the distance between a member state's position and the final outcome. At the COREPER level, a similar result is observed, with a 1.5 percent increase associated with each extra intervention. When all interventions are considered together, a 1.4 percent increase is

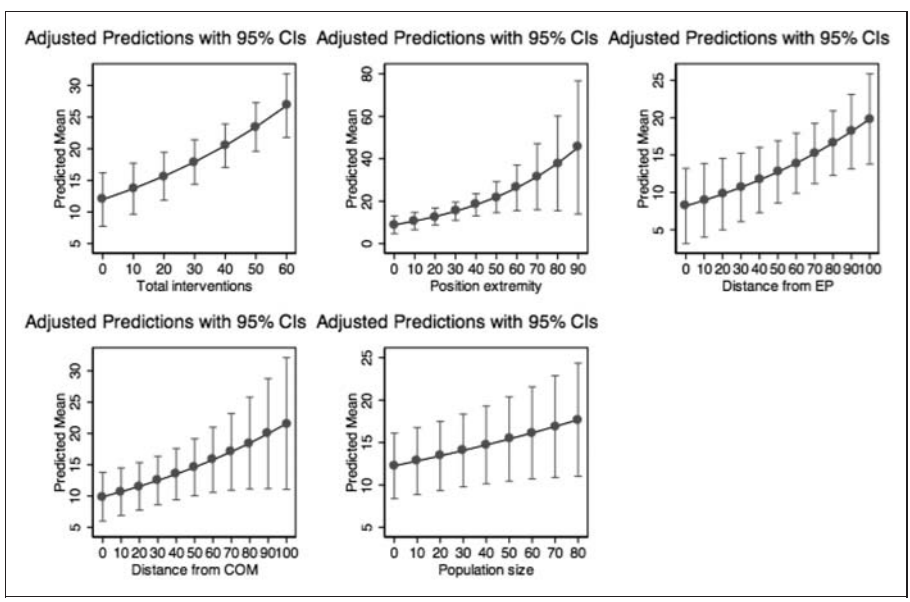

Figure 5. Substantive effects of chosen variables from Model 4.
Note: Adjusted predictions with 95 percent confidence intervals.

observed. The substantive size of the effect of total interventions on bargaining success is illustrated in panel 1 of Figure 5. As can be seen, a member state that makes 60 interventions is predicted to be about 14.85 saliency-weighted policy scale points further away from the final outcome versus a member state that makes no interventions. In contrast to Models 1 and 2, which find no support for Hypotheses 1a, 1b and 2, here we find no support for Hypothesis 1a, support for Hypothesis 1b and only weak support for Hypothesis 2, which argued that there should be differences in the substantive size of the role of interventions in different legislative settings.

When one considers the theoretical discussion outlined at the beginning of this article, these results support the idea that interventions are reactive and that member states use them as a signal that they are unhappy with the direction in which negotiations are proceeding. This is in line with Hagemann's (2008) similar findings regarding the role of formal statements made at the end of negotiations and with Slapin and Proksch's (2010) findings on the role of parliamentary speeches in EP debates.

Moving on to the factors related to a member state's relative position at the outset of negotiations, it can be seen that the relationships between a member state's initial position and that of the other member states, the EP and the Commission all significantly affect bargaining success in the expected direction. Each one-unit increase in the extremity of a member state's policy position relative to other member states' positions results in a 1.8 percent increase in the saliency-weighted distance between a member state's initial position and the final outcome. This finding again is in contrast to the findings in Models 1 and 2, as here we find support for the hypothesis that the position of a member state relative to other member states affects its bargaining success. The change in bargaining success over the whole range of this variable is illustrated in panel 2 of Figure 5. A member state that is 90 policy scale points away from the mean position will be 36.49 saliency-weighted policy scale points away from the final outcome compared with a member state with the same policy position as the mean.

A similar effect is observed for the distance between a member state's position and that of the EP, with each one-unit increase associated with a 0.9 percent increase in the saliency-weighted distance between a member state's position and the final outcome. The substantive size of this effect is shown in panel 3 of Figure 5, with a +11.64 saliency-weighted scale point difference between the minimum and the maximum of this variable. The Commission position plays a similar role, with each one-unit increase in the distance to the Commission position associated with a 0.8 percent increase in the saliency-weighted distance between a member state's initial position and the final outcome. The substantive difference between the minimum and the maximum of this variable is +11.7 saliency-weighted scale points (panel 4 of Figure 5). These findings support Hypotheses 4 and 5, and they suggest that each of these institutions can affect the bargaining success of a member state and that forming a coalition with either can be a good strategy to influence decision outcomes.

In contrast to the role of other actors' positions in the policy space in affecting bargaining success, the status quo does not seem to affect member state bargaining success. This negative finding could be a result of the fact that the status quo is influential only when actors have positions close to it. In such cases, the effect is attributed to coalitional possibilities rather than to closeness to the status quo per se. Indeed, if all actors were far from the status quo, then one would expect it to have little effect on bargaining success.

Finally, the role of member state power, as captured by population size, is again found to significantly affect bargaining success, lending support to Hypothesis 7. Each one-unit increase in population (representing 1 million people) is associated with a 0.5 percent increase in the saliency-weighted distance between a member state's initial position and the final outcome. The substantive size of this effect as one increases population is illustrated in panel 5 of Figure 5. This model estimates that Germany will be 5.6 saliency-weighted policy scale points further from the final outcome than Malta, which is marginally smaller than the effect found in Model 2.

Conclusion

The findings presented in this article provide new insight into the determinants of bargaining success within the Council of Ministers. The main point to emphasize is that the specification of a measure of bargaining success that ignores issue saliency significantly distorts the level of member state utility losses experienced in legislative negotiations. Such a measure does not allow for the fact that, in many cases, member states with positions far from the final decision placed very little value on the issue at stake in the first place. The article went on to operationalize a measure of bargaining success that does account for issue saliency and demonstrated how the measures differ. It then compared the relationship between each of the measures and a set of factors thought to affect bargaining success and found significant differences in the observed effects of these variables.

The first set of factors considered were those over which member states had control, that is, the number of interventions to make over the course of negotiations. When one ignores issue saliency, interventions were not found to be associated with bargaining success. In contrast, when issue saliency was accounted for, it was found that interventions at the working group and COREPER levels within the Council were associated with less bargaining success. This finding suggests that, rather than interventions positively affecting bargaining success, they instead seem to act as a signal that negotiations are not going well for the member state making the intervention, and, noticing this, the member state in question wishes to make this fact known to other negotiators. This result was also found to hold when considering total interventions.

When it came to the variables related to the constellation of initial policy positions, again some differences were observed in the factors that were found to be significant. When issue saliency was ignored, only the relative positions of the

Commission and the EP were found to affect bargaining success. In contrast, when issue saliency was accounted for, the relative extremity of actor positions was also found to affect bargaining success. The substantive effects associated with the relative extremity of a member state's policy position and its proximity to the EP and the Commission suggest that a member state's bargaining success is to a large extent determined by factors beyond its control. This is not surprising given the diversity of interests inherent in the EU and the fact that no fixed coalitions have been found to exist within the Council (Thomson, 2009). Having a policy position near to possible compromises or near to the positions of important institutional actors is thus advantageous for member states, in term of bargaining success, because these points in the policy space tend to be closer to decision outcomes.

Factors relating to member state power were found to affect member state bargaining success across both sets of models. The direction of the effect was found to be positive, suggesting that larger member states actually experience less bargaining success than their smaller counterparts, although the substantive size of the effect was found to be rather small. Arregui and Thomson (2009) suggest that smaller member states might achieve more bargaining success because they represent a smaller cross-section of interests, thus enabling their representatives to put forward more coherent and focused arguments when they take positions on issues, and the findings presented here support that view. Given the cooperative norms that are thought to dominate Council decision-making, these types of argument are thought to be particularly effective and lead to more bargaining success. The results presented here lend further support to this argument.

Although the current article sheds light on the role of interventions, relative policy positions and power in determining member state bargaining success, some caution must be maintained in generalizing from the findings, and much remains to be explored. The scope of the current article is limited to proposals under the codecision procedure with the QMV rule. It is reasonable to expect that, under different decision-making procedures and voting rules, the role of the factors considered here in determining bargaining success should vary.

A further reason for caution is that it was possible to get complete intervention information for only 14 distinct legislative proposals, and these proposals were themselves chosen because of their controversial nature. It is plausible that, for less controversial proposals, some different mechanisms might be determining bargaining success. That being said, it is precisely when controversy is high that we should be interested in how bargaining success is determined, because the potential for winners and losers should be higher.

Although exploring such questions is beyond the scope of this article owing to data availability, the direction in which future research might proceed is clear. Future studies should delve further into how member states' strategies of negotiation vary across different types of proposals and how different institutional rules influence the factors thought to determine member state bargaining success. A greater understanding of the internal workings of Council negotiations will be gained by considering these questions.

Notes

1. A discussion of the assumptions underlying rational choice institutionalism can be found in Hall and Taylor (1996) and Aspinwall and Schneider (2000).
2. This definition of policy positions is clearly related to the idea of policy preferences, yet they cannot be said to be the same thing. There is a long debate in the literature concerning the relationship between preferences and policy positions. This article assumes that policy positions reflect states' underlying preferences. This idea is of course challengeable, yet there are good reasons to expect that positions and preferences are closely related. Thomson (2011: 132–55) provides both quantitative and qualitative evidence that member states' policy positions reflect their underlying domestic interests. Complementing this argument, Arregui (2008) points out that, in the Council working groups (and, it seems fair to assume, in COREPER), negotiators are more or less aware of the preferences of their negotiation partners, given their near-constant contact. This makes it difficult for negotiators to hide their 'true' preferences and implies that positions taken should be close to the alternatives preferred by negotiators. The article thus chose to focus on the most favoured initial position on the issues under consideration, rather than attempting to access underlying preferences.
3. The focus here is on formal interventions in meetings rather than on informal contacts. When actors make a formal intervention in a Council meeting, they explicitly associate themselves with a position on a particular draft of the legislation under consideration (Ramberg, 1978; Thurner and Pappi, 2009). Such interventions commit actors to a particular position that is recorded and can be pointed to by other negotiators. This is not the case with informal expressions of positions that are not formally recorded.
4. Records of member state interventions are kept in the footnotes of Council documents, which record the progress of negotiations through the Council. The manner in which member states make interventions in the Council is influenced by the rules of procedure relating to Council discussions. The rules of procedure dictate that, unless indicated otherwise by the Council Presidency, member states should intervene only when proposing changes to the proposal under negotiation and should remain silent otherwise (2004/338/EC annex 4; 2009/937/EU annex 5). This implies that member state interventions are in most cases attempts to change the Commission proposal under negotiation, rather than expressions of agreement. This is important for the argument made below.
5. Owing to data concerns, this article focuses on the working group and COREPER levels of decision-making and excludes the Council of Ministers level. The records of meetings at the Council of Ministers level are not as detailed as those for the lower levels of decision-making and this made collecting the relevant data difficult and the quality of these data questionable in comparison with the data collected for the working group and COREPER levels.
6. Measuring power using the proxy of population is common in the literature. A number of different power measures were included in test regressions in order to examine if the way in which power is measured affects the results obtained. This included using weighted voting power indices (Shapley and Shubik, 1954) and the number of votes possessed by each member state in the Council. In the end, there was little difference in the results obtained owing to the fact that these measures are highly correlated in the first place. It was decided to leave these models out of the analysis because they add little to the overall argument.
7. The proposals included are listed in Web Appendix 2.

8. The issue of non-separable preferences is not considered owing to data limitations. It is assumed that all actors have separable preferences, by considering each issue individually. See Hinich and Munger (1997) for a detailed account of how unweighted and weighted Euclidean distances are constructed.
9. See Web Appendix 3 for the complete dictionary.
10. Web Appendix 1 presents the summary statistics for the variables of interest. These statistics will be useful for interpreting the substantive effect of the variables of interest.

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