First Chapter

Introduction

THE European Union (EU) lies today at the heart of much of the legislative activities in the member states. During its 51 years of existence in various guises, the powers and competences of the EU have steadily increased.

As the EU has gained more competences the Council has become an ever more important institution.

As the main legislative body, every commission proposal must pass through the Council in order to become legislation. The Council occupies an uneasy position in the EU machinery. It is a Community institution, which also consists of 27 member state governments. These member states governments come together in the Council with diverse policy preferences and negotiate agreements. Since the introduction of the co-decision procedure, now the ordinary legislative procedure, in its various incarnations, the Council and the European Parliament (EP) essentially now forms a two-chamber system of governance in the EU. A lot of research has been conducted o the EP, especially with regards to voting behavior and coalition formation [REFERENCES], facilitated by the great openness of the institution. However the Council has been less open, and

The importance of EU legislation, hence the importance of understanding the Council

The council as the most importan institution.

The EP as a co legislator

The importance of EU legislation, hence the importance of understanding the Council

How does the Council work

What we know so far

Critique

What is the purpose of this book? research question!

research design

The literature on the Council of ministers has within the last couple of years reached a level of maturity where we know have three (almost) universally accepted stylized facts.

1. Council decision making is structured by a wish to reach consensus.

2. There are weak cleavages that structure conflict (north-south, new-old, left-right)

3. The presidency matters

Of these stylized facts the least tested is the claim that a norm of consensus has a strong causal effect on decision making in the Council. The common argument for the consensus norm has three key components. First actors interact with each other in an insulated environment. Secondly the population of negotiators change very slowly, so actors can build up long histories of interactions. Thirdly, this allows for the development of diffuse reciprocity. Once diffuse reciprocity is present, then the development of a consensus norm follows closely.

The evidence for a consensus norm comes from three sources, namely case studies, council voting records and the DEU data set. The use of different kinds of data, not surprisingly, impacts the conclusions reached [WRITE MORE]. However the conceptualization of the consensus norm also differ across approaches, with the quantitative studies often employing a simple indicator for consensual voting as evidence for the consensus norm. In contrast many case study scholars work with richer conceptualizations of the consensus norm. For them a consensus norm not only implies consensual voting, but consensual voting is seen as an outcome of the effect the consensus norm has on the interaction among negotiatiors, and for many scholars this is the interesting effect. Although there is a clear link between the consensus norm and consensual voting it is not perfect. Consensual voting can be caused by either the consensus norm or log-rolling, when only studying voting outcomes it is difficult to disentangle these two causes from the effect, whereas this is possible when conducting case studies.

The scholars who study decision making through case study methods present the most consistent evidence for a consensus norm. Table 1.1 presents an overview of the cases, the studies in which they have been used, and the main conclusions from the studies.

All authors agree that the consensus norm is present in the Council; they also agree that the effect of the norm is to produce a cooperative negotiation style; however they they differ with regards to how much causal efficacy is given to the norm.

Case	Year	Policy Area	Studies	Findings
Local Elections Directive	1994	Legal Affairs	Lewis 1998, Lewis 2003, Lewis 2005	Strong effect of the consensus norm
Working Time Directive	1993	Employmant and Social Affairs	Lewis 2003	Consensus norm was trumped by domestic concerns
Internal Energy Market Directiv	1996	Internal Market	Eising 2002	The consensus norm work in conjunction with fomal institutions
Transparancy Regulation	2001	Legal Affairs	Elgström & Bjurulf	The consensus norm work in conjunction with formal institutions
Dublin II Regulation	2003	Justice and Home Affairs	Aus 2008	Strong effect of the consensus norm

Table 1.1: Case Studies and the Consensus Norm

Lewis is the strongest proponent for attributing a strong causal effect to the consensus norm. In his case studies the norm is the main causal explanation for the the reason why Austria and Belgium did not block the local elections directive. The decision not to push for a vote, and the willingness of the Council to accomodate the concerns of Belgium is interpreted by Lewis as evidence for a culture of compromise. The working time directive from 1993 illustrates that the consensus norm is not universally in effect, but does vary according to certain scope conditions. In the light of strong domestic pressure and public scrutiny the consensus norm breaks down. The study by Eising illustrate that one effect of the consensus norm is to restrain the set of feasible actions available to negotiatiors. However only in conjunction with an efficient institutional capacity for resolving conflict and facilitate policy learning does the consensus norm lead to political agreement in the light of conflict. This is also confirmed by Elgtrom and Bjurulf. In their study the consensus norm only works in some conditions. The French presidency, that precided over the first stage of the negotations, took a decidedly majoritarian approach, catering to the qualified majority and making minimal consessions to the minotrity. However due to the involvement of the European parliament, a vote was not pushed. In the second half of the negotiation Sweden, belonging to the minority block, took over the presidency and brokered an agreement. The role of the consensus norm was visible in the willingnes of the minority to accept the presidency compromise, and the unilateral concessions offered by several memberstates. However the effect was hampered due to the involvement of the EP, which was threatening with a possible conciliation round. The detailed study by Aus on the Dublin II regulation show how the consensus norm can be used strategically to overcome opposition. Greed and Italy where staunchly opposed to the principle of first contact[1]. Throughout the Belgian and Spanish presidencies the greek and italian reservations stood firm. Proposals for altering the first contact principle stranded on opposition from Germany and France, thus there where no end to the stalemate in sight. During the Danish presidency presented the Council with a political decleration promising solidarity with member states disproportional burdened by asylum applications, this statement was attached to the Dublin II regulation, but failed to convince Greece and Italy. In a last move the Danish presidency deicded to adopt a silent procedure, putting the proposal along with the political decleration forward to the Council: While a written procedure requires member states to explicitly state their agreement, a silent procedure requires member states to explicitly state their opposition. Thus since no member state wanted to “rock the boat” , no opposition was recorded, and a political agreement was reached.

[1]Asylum seekers are to have their application processed in the member state though which they first enteres the EU.

The case studies detailed above all present compelling evidence for the presence of a consensus norm, however they also present a very biased case selection. As table 1.1 show there are very few cases covering a very limitecd range of policy areas. Furthermore the cases cover a time span from 1993 to 2003. This provokes the question of what we can learn from these cases. The internal validity of all the cases are not in question, but to what degree these cases represent typical negotiations, or are in some respect outliers is not clear. Furthermore only in two cases do we find any independent causal effect of the consensus norm, in the rest of the cases the consensus norm only carry causal efficacy in conjunction with other causes.

The DEU data has in many regards allowed scholars to test classic hypotheses from the rational-institutionalisst litarature in a new and more comprehensive manner. One of the conclusions of the project was that

If one wants to study the consensus norm over a large time period, and have a large number of cases, the voting records from the Council minutes must be used.

However using these records to study decision making in the Council is not unproblematic. Most studies using the voting records from the Council focus either on identifying the conflict structure of the Council, i.e. which cleavages seem to determine the voting behavior, or on explaining voting behavior in the aggregate (such as the number of bi-annual no votes and abstentions). There has been several critiques of this approach. Hagemann points out that votes are not the only information on conflict in the Council. Member states often make statements as reactions to votes in the Council, and ignoring the information present in these statements risks biasing the results towards finding consus. Furthermore most analyses infer their conclusions with regards to the member state, however as Hagemann and Hoyland point out, the Council is more correctly viewed as an assembly of different cabinets. It is concievable that different cabinets from the same member state will behave very differently in the Council, thus we risk making faulty inferences about voting behavior if we gloss over the different cabinets of a member state.

With regards to the unit of analysis, many studies use aggregate data to make inferences about the Council as an entity, whereas the argument about the consensus norm works on the individual negotiator in the Council, thus there is often a mismatch between the theoretical unit of analysis, and the empirical unit of analysis. Only Hagemann and Hoyland (2008, 2010) have broken down the council vote to their natural unit of analysis, namely the single vote of a given cabinet on one dossier, however they do not model the decision to vote yes, no or abstain directly as a function of a set of independent variables.

There are also problems with the case selection in many studies of the consensus norm. In most of the case studies it is not clear how the case selected stands in rela-

tion to the population of relevant cases, indeed often the relevant population is not properly defined. This makes it difficult to generalize beyond the single case. Studies using the voting records from the Council suffer from a different type of selection bias. often studies either include only the distinction between definitive and ther legal act to seperate relevant from irrelevant cases. Depending on the research question this can be a valid approach, however when studying the consensus norm this procedure risks biasing the case selection. It is important to distinguish controversial dossiers from non-controversial dossiers. When there is no controversy, there is no need to seek consensus actively, thus including non-controversial acts in an analysis risks biasing it towards finding consensus. The distinction between definitive an other acts is not appropriate as it is possible to have non-controversial cases amon the definitive legal acts, and one can find controversial acts among the other legal acts. Some studies use the voting records as an indicator for when an act is controversial or not, but this is not appropriate when the dependnet variable is the voting behavior in the Council.

Second Chapter

Diffuse Reciprocity and Bargaining

BARGAINING is a fundamental aspect of politics, and it is no surprise that from its inception political science has been focused on "who gets what, when and how". As the European Union has developed into a hybrid between federation and International Organization, scholars have been increasingly fascinated with the decision making processes within and between the institutions.

When studying a phenomena it is often useful to ask: what is this a case of? This has the advantage of locating the phenomena in a group of similar cases, and thus allows us to abstract away the specific and focus on the general features of such cases. The Council is in its most abstract a social system. Any social system is composed of constituent units, in the social sciences these units are often individuals, countries, regions, ethnic groups etc., in the Council we can define the constituent unit as the individual government from a specific member state. The behavior of a social system is resultant of the actions taken by its constituent parts. Thus in order to analyze a social system proper, it is often necessary to deploy an analysis centered around the actions and orientations of the constituent units. Focusing on the units of a social system has the advantage of providing a more fundamental understanding of how a social system produces any output, compared to an analysis that stays purely at the systemic level. The challenge, then, for much social science theory is to move from an explanation centered around the constituent units of a system to the aggregate behavior characteristic of the system. This is what Coleman (1990) has labelled the micro-to-macro problem. To overcome this problem it is necessary specify how actors can interact with each other and how these interactions can bring about systemic effects. The most prominent systemic effect in the Council is high number of consensual decisions made every year. Votes in the Council are taken at the final stage of the negotiation procedure, at this point there usually is a final version of the dossier and it has mostly already been established whether there is a majority in favor or not, and through discussion in COREPER and the Council it is commonly

known who will vote "no" or abstain from voting (Lempp and Altenschmidt, 2008). If no majority can be found the dossier is usually send back to the Commission for a redraft. Hence voting only takes place on dossiers that will pass in the Council. In this sense the vote represents the aggregate outcome of the preceding negotiation process, hence to explain the vote it is necessary to account for the nature of the preceding negotiations. Any theory that purports to successfully explain negotiations in the Council must be able to account for the voting behavior of governments in the Council.

In the literature on the Council it is possible to distinguish between three approaches towards the voting behavior of governments. The first approach treats voting in the Council as an expression of revealed preferences, and commonly use the votes to position member states and governments in a one- or two-dimensional political space (Hagemann and Clerck-sachsse, 2007; Hagemann and Hoyland, 2008; Mattila, 2009). The second approach is based on Downs (1957) spatial model of bargaining, and has been extensively used to explain most aspects of Council decision making (Thomson et al., 2006). The model as been popular in explaining voting behavior as it can account for log rolling among governments, and as such is seen as a good explanation of the high degree of unanimous decisions made in the Council (Mattila and Lane, 2001; Konig and Junge, 2009). The third approach gives primacy to an informal norm of consensus. It is argued that the Council must be viewed as a social environment in which a socialization process takes place. In close knit social environments with a high meeting frequency the shadow of the future becomes very long, and this provides the foundation for an informal norm of consensus. In this sense the social environment is an importent variable that must be accounted for when explaining decision making in the Council (Johnston, 2001; Heisenberg, 2005).

Each of the approaches above suffer from shortcomings. Treating votes as revealed preferences makes several strong assumptions about the nature of negotiations in the Council, i.e. no log rolling or other types of vote trading should take place. This is a very restrictive assumption. The spatial model fares better as it can allow for log rolling, but it makes the assumption that log rolling happens synchronous, thus it cannot account for exchanges in which there is uncertainty around one or more of the actors positions and saliences. The literature on informal norms fare better in this regard, as it includes a mechanism of diffuse reciprocity to account for asynchronous exchanges (Jönsson, 2000; Lewis, 2000). However most studies relying on informal norms to explain decision making in the Council do not provide satisfactory explanations of voting behavior in the Council.

In this chapter I will outline the micro foundations for a theory of negotiations within the Council based on the concept of diffuse reciprocity. The basic premise

of my approach is rooted in the informal norms literature, namely that the Council is a social environment. This implies that the type of interaction among actors is of key theoretical importance(Johnston, 2001). When actors interact repeatedly in a fixed group setting this is conducive to informal practices coming into play that structure the interactions. In negotiation settings this has been shown to lead to diffuse reciprocity (Jönsson, 2000). Building on the theory of diffuse reciprocity I argue in this chapter that dissent in the Council is best understood as signaling devices, either towards the other governments in the Council or towards a domestic audience. Viewing dissent as signaling devices provides a clean theoretical framework within which we can explain the different voting choices of governments, and can explain why we see dissenting behavior even though there is little chance of altering any policy outcomes.

In the first two sections of this chapter the critique of either treating votes as revealed preferences or using the spatial model is developed in more detail. Then the mechanism of diffuse reciprocity is introduced and the subsequent section advances the argument of treating votes in the Council as signals and links it to the diffuse reciprocity mechanism. In the subsequent sections diffuse reciprocity is shown to be a case of a social norm, and drawing upon literature from the fields of International relations and legal studies two approaches to measuring diffuse reciprocity are proposed.

2.1 Voting in the Council

As detailed in the previous chapter several studies have examined voting in the Council. The common findings are that there are very few dissenting votes, when there finally is a dissenting vote it is usually one or two governments that express their dissatisfaction. Hence when voting on the final version of a dossier in the Council the probability that it will pass with or without a given governments vote is overwhelming. Only under unanimity voting does the individual government have a credible blocking power, however if there cannot be found any compromise under unanimity the dossier will be send back to the Commission for a possible redraft, and no vote will be taken. We can therefore conclude that dissenting votes in the Council have little chance in actually blocking the adoption of a dossier. This raises the question of why we even see dissenting behavior in the Council.

To this we can add a second conundrum. There are three types of votes in the Council, “yes” vote, “no” votes and abstentions. These votes have very different effects under QMV and unanimity voting rules. In order to reach a qualified majority in the Council at least 72% of the votes is needed, hence any vote not expressing

approval of a dossier will make it more difficult to reach a qualified majority. For this reason the actual effect of "no" votes and abstentions are the same under QMV, they both make it harder to reach a majority. Unanimity voting in the Council is a different game. Under this rule only an explicit "no" vote will block the adoption of a dossier, abstentions are not counted as blocking votes. The only scenario where abstentions could prevent the adoption of a dossier is if every government in the Council abstained, however this is a very unlikely scenario. The key point here is that abstentions do not make it more difficult to reach a decision, whereas "no" votes will block a decision. Two questions emerge from these facts. Why do governments use both abstentions and "no" votes under QMV? Why do governments abstain from voting under Unanimity? The questions raised do not get less pertinent when considering that often the same governments will use both abstentions and "no" votes on different dossiers under the same voting rule.

A commonly used interpretation of votes in legislatures is that they represent the revealed preferences of the members. In their study of committee roll-call votes in the Congres (Krehbiel and Rivers, 1988) show that in order to derive policy positions from roll-call votes the legislators must choose between clearly delineated and mutually exclusive options. Furthermore in order to interpret the vote choices of a legislator as revealed preferences, we must first make the assumption of sincere voting. Deriving policy positions from roll-call votes has gained widespread popularity within political science in the last 20 years (see Volden 1998; Schickler 2000; Clinton, Jackman and Rivers 2004). Within European politics the approach has been used to study the European parliament. Indeed the raison d'Ãłtre for using roll-call votes to study legislative behavior in the EP is that they reveal the underlying policy locations of MEPs in a direct manner (Hix, 2002; Hix, Noury and Roland, 2007; Hix and Noury, 2009). Since the MEPS in the EP have the possibility for abstaining on a vote, it has been common practice to count abstentions as not present under the simple majority rule, and as a "no" vote under the absolute majority rule. The reason being that under simple majority rule only the majority present in the plenary is needed to pass a dossier, whereas under absolute majority a majority of all MEPs is needed. In a legislative setting where "no" votes actually matter this might make sense, however it does not adress the question of why we see legislators using different votes that in praxis have the same effect.

Treating votes in the Council as an expression of revealed preferences is risky for two reasons. First, The assumption of sincere voting is not likely to hold in most cases. log rolling (or side payments) is a mechanism that has been posited to work in many legislatures (Carruba and Volden, 2000; Mattila and Lane, 2001). However once a log rolling mechanism has been set in motion sincere voting is "no" longer

possible on all dossiers. Voting is now a mix of salience and preferences, thus votes, depending on the dossier, can now represent a strategic calculation as well as a true preference. Indeed Konig and Junge (2009) show that the Council has a very large potential for log-rolling deals. From a different perspective the presence of diffuse reciprocity (Keohane, 1986) has been shown by several authors to exist in the Council (Lewis, 1998, 2003; Jönsson, 2000). Much like log rolling, diffuse reciprocity is a mechanism that allow governments to compromise on certain dossiers in the expectation that they will receive a future gain. However in opposition to log rolling the future gain is not well defined. Hence in the presence of diffuse reciprocity we are in much the same situation that only on some dossier can we expect sincere voting.

Second, the vote choices do not represent clearly delineated categories. Depending on the voting rule the choices available to governments take on different meanings. Under QMV an abstention is equivalent to a "no" vote, whereas under unanimity it has no effect. Likewise a "no" vote is not likely to have any effect under QMV, whereas under unanimity it can block the adoption of a dossier. One option to overcome this is to collapse "no" votes and abstentions into one category under QMV and treat abstentions as not present under unanimity, much like the roll-call literature on the EP, however this ignores the fact that governments use both options, hence there seems to be a perceived difference between the two choices. Thus a naive theory of voting as an expression of revealed preferences is not suitable to understand negotiations in the Council.

A good theory of negotiations in the Council should be able to explain the two conundrums presented here. Two competing models of negotiations in the Council have commonly been applied when studying voting behavior in the Council. The spatial bargaining model has enjoyed tremendous popularity among researchers of the EU (Mattila and Lane, 2001; Warntjen, 2008), although the approach is not without its critics (see Hörl, Warntjen and Wonka 2005 for a good overview). This model has the advantage of being conceptually simple and provides clear expectations to result of the negotiations and can accomodate log rolling. More sociological oriented scholars have, however, often turned to a normative model when explaining Council negotiations (Lewis, 2005; Heisenberg, 2005). A normative explanation of the Council should display a good fit wit the empirics of negotiations as the scope conditions surrounding the Council all point towards the existence of social norm. However before we can delve further into normative explanations of Council negotiations, we will have to appraise the fit of a spatial model of bargaining.

2.2 The Spatial Model of Bargaining

A very popular model of bargaining in political science is the spatial model (Downs, 1957). The fascination with the spatial model for researchers is easy to understand, the model is parsimonious and reduces decision making to two three aspects, preferences, saliences and institutions. In its simplest form the spatial model only has one dimension, actors have single peaked preferences and all attach the same salience to an issue. Under these conditions, with a simple majority rule, the median position(s) will be the outcome. Since voting in the Council is very rarely done by a simple majority, but usually through QMV and unanimity, the one dimensional model needs to be extended to take this into account. If we assume that the Commission is the agenda setter and all governments are to the right of the status quo, two scenarios emerge (see figure 2.1). Under QMV the winset is larger than under unanimity, and due to the agenda setting power of the Commission some member states will always find them preferring the status quo to the Commission proposal. Furthermore the Commission proposal at the point of indifference of the decisive government will be adopted. With unanimity the winset shrinks compared to QMV and the point of the government closest to the status quo will be the Commissions proposal.

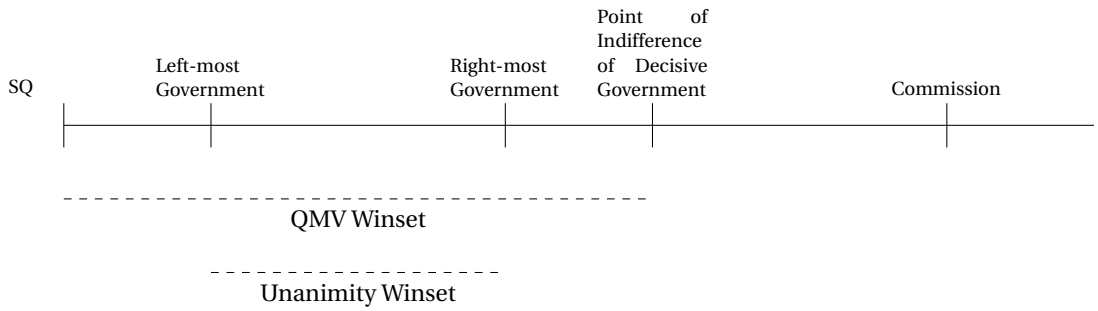


Figure 2.1: The One Dimensional Spatial Model

The point to be made here is that the one dimensional spatial model always predicts some conflict in the Council under QMV, only in cases where the status quo is further away from the left-most government than the point of indifference of the decisive government will the model predict unanimous voting under QMV[1]. This argument has been taken up in Mattila and Lane (2001), where the authors show that the one dimensional spatial model over-predicts the level of conflict i the Council. Thus while the simplest spatial model is illustrative in proposing potential dynamics that structure Council negotiations, it is too simple to capture empirical regularities.

[1]The exception is when all governments share the same preferences. Under this condition the model will always predict a unanimous decision. However cases with no disagreement, do not tell us anything about bargaining dynamics.

Therefore, while instructive, the use of a single dimensional spatial model has its limits. It is often the case that there are multiple issue dimensions within one dossier (Thomson et al., 2006). Furthermore, When negotiating in the Council governments often consider a series of dossiers within an across policy areas (Mattila and Lane, 2001; Konig and Junge, 2009). In the presence of multiple dimensions the median in all directions will be the outcome when all actors have single peaked preferences and attach equal salience to all dimensions. However when different saliences are attached to different dimensions then issue linkage or log rolling becomes a possibility. This has been extensively researched in the literature on spatial models (for a good overview of contributions see Hinich and Munger 1997; Poole 2005). Figure 2.2 show a standard spatial model with two dimensions. The status quo is the ideal point of actor p_1 on issue 1 and the ideal point of actor p_2 on issue 2. The utility curve v_1 represents the utility for actor p_1 when issue 2 is more salient than issue 1, and utility curve w_1 represents the utility curve when both issues are weighted equally. Likewise the curves v_2 and w_2 represents the utility curves for actor p_2 when issue 1 is more salient than issue 2 and when both issues are equally salient. When actors attach different saliences to the two dimensions, their utility curves become ellipses, where the width of the ellipse on a given dimension represents the points preferred to the status quo for a given actor.

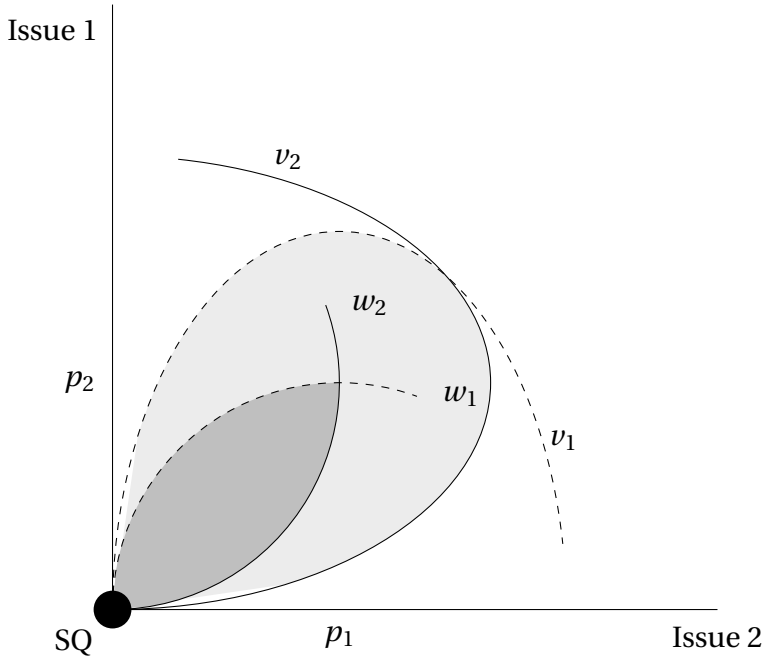


Figure 2.2: A Two Dimensional Spatial Model

The winset when both issues are weighted equally by both actors is nested within the winset for when the issues are weighted differently. Thus when actors attach

different saliences to different issues they are willing to accept a decrease in utility on one issue for a correspondingly greater gain in utility on a second issue, hence the possibility for striking a deal increases substantially. This is represented by the shaded areas in Figure 2.2, where the darker shade marks the winset when both issues are weighted equally, and the lighter shade marks the winset when one dimension has a higher salience.

The added value of this model is that it does away with the assumption of sincere voting, which was made in the simple one dimensional spatial model. The results from the two dimensional spatial model are often used when scholars want to explain the prevalence of unanimous decisions in the Council (Mattila and Lane, 2001; Konig and Junge, 2009). However for log rolling to be possible certain conditions need to be fulfilled, first actors need to know each others positions and saliences attached to these positions. Secondly the saliences must differ across actors. If actors are uncertain or do not have access to information on positions and saliences then no log rolling can take place. Third, log rolling in the spatial model is simultaneous. If the votes on the different issues are separated in time then we need to assume that actors can make binding agreements, otherwise one actor will always be able to defect from the deal without incurring any penalties. However the further the votes are from each other in time, the more uncertain any actor will be about the positions and saliences of the others. Thus from a spatial point of view log rolling should take place either simultaneously or within a short time span.

The spatial model has provided many insights into decision making in legislative bodies, however the model also displays several weaknesses with regards to decision making in the Council. First of all the simple spatial model is a poor predictor of the level of conflict when the Council votes. The more sophisticated two-dimensional model with varying saliences fares better in this regard, and it does away with the assumption of sincere voting. However the two-dimensional model assumes that log rolling is done practically simultaneously, and thus do not allow for log rolling on situations where there is uncertainty with regards to the issues considered, or when there is a time gap between the consideration of issues. As Keohane has noticed, if only synchronous exchange is possible few agreements would be made, as issues often arise sequentially, hence an appropriate exchange may be impossible when only considering issues at one point in time (Keohane, 1986, 21).

A particular weakness with the spatial models, indeed most formal models, is that they do not provide any clues as to why governments should resort to different types of dissenting votes. The spatial model only predicts whether a government should vote “no” or “yes”, however it does not address the issue of abstentions and “no” votes and how the meaning of these votes change with different voting rules. Spatial mod-

els do not necessarily exist in a binary world where governments are either in favor or not. It is conceivable that a criteria could be used to predict when a government would vote "no" or abstain, based on the distance from the ideal point to the likely outcome. However this challenge has not been taken up in the present research on the Council. When researchers use the spatial model to predict outcomes they make the implicit assumption that abstentions can be lumped together with "no" votes, this ignores a lot of information

2.3 Diffuse Reciprocity

Keohane (1986) has labelled the form of log rolling predicted by the spatial model for specific reciprocity, i.e. an exchange of votes which do not carry any further obligations. He argues that when exchanges do not carry any future obligations only limited cooperation among actors is possible. In this sense synchronous log rolling cannot lead to stable patterns of cooperation. If log rolling is supposed to happen on issues separated in time then a different mechanism is needed. Keohane labels this diffuse reciprocity. The concept of diffuse reciprocity is based around the idea of future gains. It is assumed that actors care about future interactions with each other, and thus they have an incentive to engage in compromises in order to build up a "favor bank" which can called upon when the need arises (Heisenberg, 2005). Indeed diffuse reciprocity is modelled around a sequential bargaining model where concessions in bargaining exchanges do not have to be made simultaneously nor necessarily be strictly equivalent (Jönsson, 2000). Just like the two dimensional spatial model with differing saliences among actors enlarged the winset, diffuse reciprocity enlarges the number of potential deals to be made by including future bargains into the considerations of actors.

Within sociology and anthropology the idea of diffuse reciprocity has a long tradition. Starting with the study by Mauss (1990) of the *potlach* tradition among north american indians and the study of the kula exchange ring among the trobriands of the western pacific by Malinowski (1922), it has been recognized that asynchronous exchanges contribute significantly to the stability of social systems. In the words of Gouldner:

> "Insofar as we live under the such a rule of reciprocity, when one party benefits another an obligation is generated. The recipient is now *indebted* to the donor and he remains so until he repays. Once interaction is seen as taking place over time, we may note that the norm of reciprocity so structure social relations that, between the time of Ego's provi-

> sion of a gratification and the time of Alter's repayment, falls the shadow of indebtedness."
>
> - Gouldner 1960, 174

Blau (1964), in his theory of social exchange, argue that once a donor-recipient relationship has been established a positive feedback mechanism is set in motion that require actors to further engage in asynchronous exchange relations in order to reap the benefits of the exchanges made. This fosters the development of a social structure in which reciprocity is a defining principle that regulate social interaction. What distinguishes social exchange from purely economic exchange is that economic exchanges are governed by a precise definition of any possible future obligations that might arise as a consequence of an exchange (such a taking a mortgage to buy a house), whereas social exchange involves a general expectation of a future return it is not precisely defined what this return might be. Thus social exchange creates diffuse future obligations, this requires a degree of trust in other actors that they will honor the obligations. It is therefor the inherent risky nature of social exchange relations that make the development of diffuse reciprocity possible (Blau, 1964, 94). The social exchange model proposed by Blau has been found to be effective in a number of contexts ranging from small businesses and political parties to experimental settings involving college students (for an overview see Cropanzano and Mitchell 2005). Social exchange is not limited to the dyad, when a system of social exchange becomes established we will observe a web of obligations that ties actors together in a network of obligations and credits. The mechanism that allows this is the temporal delay between exchange and return. In this "shadow of indebtedness" actors are free to engage with third parties. In a social system in which most actors will tend to see each other on a regular basis, this will quickly lead to a complex web of exchange relations.

Many scholars have argued that specific reciprocity can under the right conditions transform into a stable system of diffuse reciprocity (Gouldner, 1960; Axelrod, 1986; Keohane, 1986; Nowak and Sigmund, 1998; Diekmann, 2004). For instance Keohane follows Blau in arguing that when bargaining takes place sequentially there will always be an element of trust between actors. This trust element is found in the build up of a series of debts and credits, where the debtor has an incentive to default. However if there is a high chance of actors to meet again in future negotiations, the shadow of the future will weight heavy on the promises made. If the future is considered sufficiently important then the shadow of the future will outweigh the incentive to defect. This argument is supported by Fehr, Fischbacher and Gächter (2002) who argue that if the chance of two actors repeatedly interacting with each

other is sufficiently high, actors will engage in reciprocal acts of cooperation. Nowak and Sigmund (1998) showed that a reputational mechanism can explain the efficacy of diffuse reciprocity. The crucial aspect of a reputational mechanism is the presence of an audience that witnesses the interactions that a given actor engages in. This allows actors to accumulate "image" scores for every cooperative action they make, thus making it more likely that other actors that are aware of their images will cooperate. Such a mechanism only works under the scope conditions that all interactions are done in public and all actors belonging to a group have the possibility of gaining information on interactions by either observing them directly or by talking to other group members. This argument has also been taken up by Putnam who argues that diffuse reciprocity helps to amplify reputations of actors, and thus makes it easier to overcome dilemmas of collective action (Putnam, 1995). As Axelrod (1986) points out, reputations serves as signaling devices, indicating which actors can be trusted in future negotiations an which actors are to be shunned. If an actor decides to default on an obligation this sends a signal to other actors, when a series of donor-recipient relations has been forged this can be very costly for the actor who defaults as s/he might not see any future return on the concessions made.

Much like log rolling there are thus certain conditions necessary if diffuse reciprocity should develop. First of all actors need to be in an institutional environment in which they will on a regular basis interact with each other. When this condition is fulfilled the shadow of the future will show a strong presence. Furthermore Lewis (2005) argue that actors involved in negotiations need to be in a relatively insulated setting, such that negotiations can take place free of domestic publics bearing witness. For a system of diffuse reciprocity to develop actors need to be able to engage in compromises often on sensitive issues, and with a scrutinizing public they might be forced to defend their national "turf". In the words of Lewis:

> "[...] "open-door bargaining" and greater levels of transparancy can increase "posturing" by negotiators, since they have build-in incentives to present unyielding positions in order to demonstrate to their constituents that they are effective or committed bargainers"
>
> - Lewis 2005, 947

One argument against this might be that domestic scrutiny can also prevent governments from defecting, if the government is against a given dossier while domestic constituencies are in favor. This could concievable play a role when a system of social exchanges is being established, however the ability to compromise implies that governments will restrain themselves during the establishment of such a system, in the expectation of future gains.

Diffuse reciprocity relies on actors valuing the possible gains of the future higher than any short term gains. In cases where one or more actors are extremely powerful, and other actors are dependent on these actors, they can effectively always pursue short term gains without fear of loosing in any future negotiations. Hence diffuse reciprocity cannot work in instances of extreme asymmetric interdependence.

These scope conditions are to a large degree present in the Council. The permanent representatives meet on a frequent basis in the COREPER I and II committees, and the work of the committees is sheltered from any outside view. It has been shown in the literature on the Council that the frequent meeting activity has led to the rise of a bargaining culture where a vote is seldom pushed, but rather negotiations are carried on until either everybody is on board, or all possibilities has been exhausted (Lewis, 1998, 2003; Bjurulf and Elgstrom, 2004). Moreover the insulation of the COREPER committees allow national representatives a degree of freedom to pursue deals that might otherwise not be considered by the minister at home, and present them as the best possible outcome (Lewis, 2005, 947). This type of consensus seeking bargaining relies heavily on a diffuse reciprocity mechanism. In order to reach a consensual outcome in the light of strong opposition from some governments, it is important that these governments can compromise on their positions and feel secure that they will somehow be compensated at a later date. Finally, there is no extreme asymmetric dependence of governments in the Council. This can be readily demonstrates by the fact that it is easier to create a blocking minority than a qualified majority under QMV (Moberg, 2002). Under unanimity every government is a veto-player, thus no extreme asymmetric interdependence is present there.

2.4 Diffuse Reciprocity and Signaling

One apparent weakness of diffuse reciprocity, as outlined in this chapter, is the reliance on the recollection of previous negotiations, some often quite a while back in time. Representatives of governments in the Council have limited memories, and they do change from time to time, hence letting it be known that a government is compromising only through verbal agreement can be a risky strategy. Thus an instrument that records the disagreement is a very useful tool. The voting records in the Council is such a tool. Through the registration of a vote governments can leave a permanent record of their behavior. Given the tendency in the Council to have oversized majorities, the voting behavior of the individual government rarely will effect the outcome of a vote, and hence voting records are mainly useful as signaling devices. The implication here is not that governments are expected to consult the voting records continuously in order to know who compromised on what, rather the

voting records should be seen as an insurance against possibly forgetful colleagues in the Council.

Governments in the Council face two audiences, their domestic public and the other governments in the Council. Given that EU politics is seldom placed high on the public agenda, the domestic audience can in many instances be reduced to specialized interest groups. Any government must balance its behavior in the Council between being a credible coalition partner and not offending domestic interest groups. Whenever a government finds itself in the minority position in the Council it must decide whether to silently agree with the majority, somehow show its disagreement while still playing cooperatively, showing open disagreement to the members of the Council, or siding with a domestic constituency against the majority in the Council. Under QMV voting "no" and abstaining has the same effect, but we can assume that voting "no" to a dossier sends a stronger signal to a domestic constituency, which might not be familiar with the procedures in the Council. If we also assume that other representatives in the Council are likely to grasp the difference, hence when governments want to show strong disagreement within the Council, but not necessarily to the public, abstentions will be the preferred signal. Based on these two assumptions it makes sense to distinguish between no votes as signals to domestic constituencies and abstentions as signals to other colleagues in the Council.

Under unanimity the situation is different, however the voting behavior can be interpreted as sending the same signals as under QMV. Any government is a veto player and can block a decision they are not satisfied with, although in praxis this is observed very rarely as most dossiers that cannot be passed in the Council are returned to the Commission to be redrafted. Thus we should only on rare occasions observe no votes under unanimity. Abstentions under unanimity cannot block a decision, thus they are equivalent to a government not being present for a vote and allow the other governments to proceed with the decision. Abstentions, though, do not encourage a decision either hence there is still a substantive difference between abstaining and voting "yes". In this sense abstaining is equivalent to sending a signal of dissatisfaction to the Council. Under unanimity signals to domestic actors take a different form, which is not captured by the recorded voting behavior. Since dossiers on which a government will vote "no" are send back to the Commission, the dropping of a dossier from the Council agenda show that here some government opposed the final outcome. In this sense the threat to veto a dossier is in some sense a signal, however it is also the only case in the Council were a negative vote truly matters. Unfortunately such cases are not recorded, hence, as we shall see in chapter **??**, they cannot be incorporated into the data collection, and thus represent one potential source bias. The implication of this is that votes recorded under unanimity rarely

speak to domestic audiences.

There is a third option which we have not broached so far. In the Council it is possible to attach statements to votes. Such statements can serve a number of purposes. They are frequently used to illuminate how a given government will interpret certain articles, or how the implementation might differ from other member states. The Council as a body do also frequently attach statements to votes that are typically directed at the Commission. One type of statements that are of particular interest from our point of view is the negative statement. Sometimes governments will attach statements to their votes explaining why they felt compelled to vote the way the did. When a government chose to record a dissenting vote, such statements often describe either fears that a given dossier will create a undesirable precedence within the Community, or that aspects of the dossier are viewed as detrimental to the interests of said government. More often than not governments will attach statements to "yes" votes detailing aspects that they are not satisfied with. These types of situations speak directly to the argument that governments build up favor banks within the Council, by showing that often governments will agree to vote affirmative to dossiers that they are not satisfied with.

Finally voting "yes" in the Council can be interpreted in two ways, either a given government simply do not attach enough salience to a given dossier to raise any objections, or the final outcome is in agrement with the preferences of said government. This is a more complicated case as without information on the salience a given government attached to the dossier we cannot distinguish between the two reasons behind a "yes" vote. In any case voting affirmative in the Council is less interesting case as it does not provide any meaningful information with regards to signaling behavior. Based on these considerations Table 2.1 show a typology of Council voting behavior based on signal type, recipient and message.

Signal	Recipient	Message
No Vote	Domestic Constituency	Support of domestic interests against the Council
Abstention	Council	Strong disagreement with the final outcome
Yes + Negative Statement	Council	Support despite disagreement

Table 2.1: Types of Signaling in the Council

In Table 2.1 only the third choice category is engaging in an exchange relation within the Council. When a government votes "yes" to a dossier in which it has reservations and goes through the trouble to make the Council aware of these reservations, it is difficult to explain this type of behavior from a spatial point of view. The simple one-dimensional model cannot accomodate any cases like this. The two-dimensional model is able to accommodate log rolling, however since log rolling is

based on an already agreed trade it is difficult to explain why governments would feel the need to advertise their disagreement with the given dossier. The third category is, however, consistent with an explanation of negotiations in the Council based on diffuse reciprocity. Since governments make concession based on diffuse future rewards, it makes sense that they would want to remind their colleagues about the concessions made, and have a permanent record of the concessions.

No votes and abstentions, on the other hand, should both be seen as deviating acts from the diffuse reciprocity mechanism. However deviations comes at a cost. Any deviation from diffuse reciprocity will diminish the number of favors that can be called upon at a later stage, and if done often enough it would put a given government at a severe disadvantage. Only in situations of either severe domestic pressure, or very strong preferences that are not accommodated by the Council, would we expect to see governments compromise their standing within the Council.

2.5 Normative Behavior and Diffuse Reciprocity

Diffuse reciprocity as defined above is closely associated with the rise of social norms. Indeed Lewis notes:

> "[...] informal norms such as diffuse reciprocity operate in the context of COREPER's institutional environment and can promote pro-norm behavior."
>
> - Lewis 2005, 964

Most authors view diffuse reciprocity as an expression of a social norm (Keohane, 1986; Lewis, 2000, 2005; Diekmann, 2004). However, before we can claim that diffuse reciprocity is a social norm we need to carefully define what a social norm is. When discussing norms there is an important distinction between private and social norms. Private norms refer to self-imposed standards governing only an individual, and usually sustained by feelings of guilt and/or anxiety (Elster, 2007, 100). Social norms, on the other hand, governs behavior within groups, and are sustained by approval or disapproval by the members of the group towards the actions of the individual. This general definition of social norms is widely shared in the literature (Elster, 2007; Bicchieri, 1990; Coleman, 1990), however when it comes to the specifics there are many differences. Coleman distinguishes between prescriptive and proscriptive norms, and Elster develops a complex classification scheme for different kinds of social norms. The most specific definition of a social norm is found in Bicchieri (2006)

who develops her definition around the idea of expectations and conditional preferences. According to Bicchieri we can define behavioral regularity R in population P as a norm if:

1. Almost every member of P prefers to conform to norm R on the condition that almost everyone else conforms too.

2. Almost every member of P believes that almost every other member of P conforms to R.

The same conditions that allow diffuse reciprocity to emerge also support the existence of social norms. Indeed diffuse reciprocity is based on the expectation that in the future the exchange will be reciprocated. In order for diffuse reciprocity to work this expectation has to be almost universally shared in a given group. Hence the way diffuse reciprocity is treated in the IR and EU literature aligns it closely with Bicchieris definition of a social norm. In this sense the rise of diffuse reciprocity through a series of exchanges is equivalent to the advent of a social norm. It is important to stress that this does not mean that all social norms are based on diffuse reciprocity, rather the implication is that diffuse reciprocity is a case of a social norm.

The advantage of Bicchieris definition of social norms is that it circumvents the problem of internalization. To illustrate this issue consider the popular "three step model" of norms Finnemore (1998). First a norm is promoted through norm entrepreneurs, if they are successful and reach a critical mass, a norm cascade will follow in which more and more actors adopt the norm, in the final step the norm is internalized and becomes habitual. In this model only norms that are successfully internalized will survive and become established modes of practice. Thus in the third step norms become habitualized and are no longer consciously used by actors. The main problem with a model that relies on the internalization of norms is that it makes norms hard to observe, precisely because of their "taken-for-grantedness" (Johnston, 2001, 495). Furthermore there is plenty of theoretical and empirical evidence that internalization of norms can happen, but is not a necessary condition for norms to thrive. Hence adding an internalization step to a model makes it more complex than need be. It is a long established result in the game theoretical literature that norms can come into existence through the interaction between actors, for instance in the classic tournament by conducted by Axelrod (1986) a cooperation norm can be established simply through actors monitoring each other an adjusting behavior accordingly. Several mechanism are proposed that can sustain norms, among others: reputation and social proof. This is corroborated by Bicchieri who convincingly argue that the rise of a social norm is best viewed as a learning process. When

actors engage with each other repeatedly, they build up knowledge of past interactions which can be used to form expectations of future interactions. In this sense social learning has a decidedly bayesian flavor where expectations are continuously updated based on the latest interaction. Hence a norm do not need to be internalized in order to be effective in structuring the behavior of actors. This is in agreement with the many authors who find that there is a large degree of strategic thought behind normative behavior. Schimmelfennig (2003) find that governments during the debate about eastern enlargement would invoke constituent norms of the EU, such as inclusivity, to further their cause. The same pattern has been observed in the US Supreme court, where the chief justices Marshall and Hughes both used the ideal, that the highest court in the US should present a unified front to the public strategically to ensure unanimous voting decisions (Calderia and Zorn, 1998; Epstein, Segal and Spaeth, 2001).

2.6 Measuring Diffuse Reciprocity

In the social sciences social norms have featured prominently in many theories, however when empirically testing social science theories finding an appropriate indicator for normative behavior has not been easy. Two approaches have achieved some prominence. First of all many game theorists have devised different types of games to elucidate normative behavior, typically these games have been used in laboratory settings, where the conditions for normative behavior can be controlled. Based on insights from these experiments one set of authors have devised an approach that involves identifying behavior that is at odds with the preferences of actors. Another set of authors have looked towards the econometric literature on co-integration (see Beck 1992), and argue that consensus norms regulate conflictual behavior, and if we can identify and underlying factor regulating conflictual behavior, then we have corroborative evidence for the presence of a norm.

When assessing the causal impact of norms, researchers has often turned to devising experiments under which the conditions for normative behavior can be controlled in an exact manner. In the experimental game theory literature a number of experiments have been devised to elucidate different types of pro-norm behavior ranging from altruism to conditional cooperation. Particularly public goods experiments have yielded interesting insights into how norms are sustained in small groups A common experiment is to let two players play a prisoners dilemma game, where if they cooperate the good is provided and they each share the cost, if one defects the other actor will bear the burden of providing the good. To this setting a neutral observer is added who could decide to punish players at will. Punishment is costly,

however, and whenever the observer decided to punish a small cost was incurred. Results from these experiments show that often third parties decide to punish actors that defect, thus lowering the payoff associated with defection (see Fehr and Fischbacher 2004 for an overview). These experiments illustrate that acting normatively often means compromising on pure utilitarian goals, i.e. when the chance of getting caught is high and punishment probable if caught, actors will choose to cooperate. Hence the empirical implication of these experiments is that to observe normative behavior we must identify situations where actors in public settings will act against their own selfish interests.

This approach, which we can label the direct indicator, has been taken up by Epstein, Segal and Spaeth (2001) in their study of the US Supreme court. In the years 1800 to 1942 the US Supreme court had a yearly average of 91.5% consensual decisions. This is in stark contrast to the period after the second world war, where disagreement has been the rule, not the exception. Many scholars have argued that there were a norm of consensus present in the Supreme court, however conclusive evidence has been scarce (Haynie, 1992; Knight and Epstein, 1996; Calderia and Zorn, 1998; Epstein, Segal and Spaeth, 2001). Epstein, Segal and Spaeth (2001) propose that in order to establish the presence of a norm, one must be able to identify one type of behavior that is only consistent with a normative based explanation. This allows a researcher to dispose with alternative explanations that might produce the same outcome, but through a different mechanism. The approach taken by Epstein, Segal and Spaeth (2001) was to identify cases in which judges had expressed doubts about a ruling in private, but still voted with the majority in public. They argue that:

> "This is precisely the sort of behavior we would expect to find if a norm of consensus operated on the Court; public unanimity masking private disagreements."
>
> - Epstein, Segal and Spaeth 2001, 365

This type of argument is very much in line with the evidence presented in the experimental game theoretic literature on normative behavior, i.e. we can recognize normative behavior when actors engage in costly behavior that is against their own utilitarian preferences. In the Council we have a direct equivalent to the indicator used by Epstein et al. Although the representatives of the governments do not record in detail their discussions, their use of statements attached to their votes indicate whether they acted against their short term interests. On many votes where member states votes "yes", we see statements such as the following attached.

> "The Spanish delegation states its disagreement with the distribution of EU TACs in the North Sea and the Baltic Sea areas. Spain maintains the appeals it has made to the Court of Justice of the European Communities against Regulations (EC) Nos 2341/2002 and 2267/2003, under which Spain was granted no quotas in those fishing areas despite the transition periodâĂŹs having ended, and it will submit a further appeal."
>
> Spain, COM (2004) 785

The above quote is taken from the vote on the regulation fixing the fishing quotas for 2005 in waters where catch limitations are required. During the Spanish and Portugese accession negotiations a transition period was determined where fishing fleets for the two member states where not allowed to fish in the North and Baltic seas. This transition period has already expired, however since Spain commands the largest fishing fleet in the EU other member states have been reluctant in granting the spanish fleet fishing rights i their waters. However despite the efforts of Spain to secure fishing rights in the North and Baltic seas, the spanish government still voted "yes" to a proposal that did not grant them these rights. The dossier was adopted under QMV, so there was little to be gained from voting no, beyond sending a signal to the Spanish fishermen. Since Spain at the time had a series of appeals running at the European Court of Justice, one could argue that the fishing lobby had been appeased, hence voting "yes" on this dossier is difficult to explain from a spatial bargaining model, however it is consistent with an explanation focusing on diffuse reciprocity.

The second approach, which we can label the indirect indicator, to measuring norms has primarily been used within the IR literature (Ward and Rajmaira, 1990, 1992; Goldstein, 1991; Rajmaira, 1997) and the study of the US Supreme court (Calderia and Zorn, 1998). The early move within the IR literature to assess the empirical presence of norms was very much influenced by the work of Keohane (1986) and Axelrod (1986). The authors in the field commonly argue that norms should be viewed as social institutions. As such the purpose of a norm is to structure interaction among participants whenever there is the potential for conflict. Following the classic exchange theorists they argue that social institutions represent equilibrium points, and these equilibrium points are the result of a series of exchanges between actors. Social institutions must be able to engender compliance, otherwise they would not exist for long. In equilibrium compliance can be achieved in two ways. First of all it might be that no actor has any incentive to leave the equilibrium, i.e. to break the norm. The equilibrium point is then the optimal course of action. In this sense norms can be largely self-enforcing. Secondly, norms as institutions can provide reasonable ex-

pectations towards the behavior of other actors in certain circumstances. As such a norm will drastically lower the uncertainty that is associated with calculating consequences of possible avenues of action. Finally a norm can come with a sanctioning mechanism. If participants have the possibility to monitor social interactions and detect defection from the rule, sanctioning defectors allows a social institution to be upheld, despite not being the optimal course of action for all participants. In line with the literature on the consensus norm in the Council, all scholars stress the importance of time when dealing with norms. Social settings in which the actors interact frequently, where there is little replacement and socialization takes place by learning from more experienced actors, we can expect a long institutional memory to persist. It is under these conditions that we would expect norms to emerge, and the claim is that we can witness manifestations of norms in the behavior of participants in a social institution over time. The authors argue that a consensus norm should operate by regulating the amount of dissent expressed openly, furthermore this regulation of dissenting behavior should be present in a long time series. To assess this empirically scholars have conceptualized normative behavior as reactive sequences over time. For instance (Ward and Rajmaira, 1990, 1992) examine Soviet-US relations through the joint-event history of the two superpowers, by coding actions as either reciprocal or conflictual they examine the two time series to see whether they share an underlying component. If the two series tend to drift in the same direction, allowing for short term fluctuations, this evidence of a shared norm of reciprocity. Rajmaira & Ward find this relationship to be strong in super-power interactions, an show that the past history of interactions are important in forming future expectations. Depending on the history this can lead to either long-term cooperation or conflict, as expectations become self-fulfilling. A similar pattern has been found in the US Supreme court by Calderia and Zorn (1998). In the Supreme court judges have three possible choices when casting their vote, they can vote “yes”, “no” or write a concurrent opinion in which a judge expresses his/her agreement with the majority, but with different reasons as the basis for the decisions. Calderia & Zorn argue that if a consensus norm is present in the Supreme court, then it should express itself in a consistent low level concurrences and dissenting votes, and both series should be governed by the same underlying factor. They find a strong relationship between concurrences and dissenting votes. This is interpreted as evidence for the presence of a consensus norm. This approach to measuring norms as the underlying factor the binds together long term trends in behavior that is consistent with normative expectations, carry a high potential for research on the consensus norm in the Council. Very much like the US supreme court, the copiously large amount of consenting votes have been interpreted as evidence for a consensus norm. In order to deter-

mine whether it really is a consensus norm that governs the high number of "yes" votes, the literature on norms in IR and the US Supreme court show that we can gain much by focusing on the relationship between types of dissenting votes.

What type of norm the approaches outlined above capture is not clear. One assumption made in all studies is that we can identify one area of interest which should be governed by a single norm. Both Epstein et al. and Calderia & Zorn assume that there is only one norm operating within the Supreme court, namely a consensus norm. In the same vein Rajmaira & Ward assume that their tests capture a norm of reciprocity. In this chapter I have argued that a norm of diffuse reciprocity is the most likely explanation for the consensus seeking behavior in the Council, this implies that any evidence found of normative behavior in the subsequent chapters will be interpreted as corroboration that a norm of diffuse reciprocity is active in the Council.

2.7 What to Come

This chapter laid out the micro foundations for a theory of diffuse reciprocity within the Council. By showing how diffuse reciprocity can come into existence through exchange relations, and once established can lead to asynchronous log rolling, the foundations for an explanation of consensual voting in the Council relying on informal norms and methodological individualism was specified. Under a regime of diffuse reciprocity where any single vote will rarely make a difference, and governments use different types of dissenting that are formally equivalent, treating votes as signaling devices provides a possible explanation of the voting patterns that has been observed in the Council.

In the next chapters the theory developed here will be explored with regards to three different aspects of decision making in the Council. Chapter 3 will examine the determinants of vote choice in the Council. A key aspect of the diffuse reciprocity approach to negotiations in the Council is the vote choice of the member states governments, if these choices are indeed signaling devices then we should be able to explain the vote choices as functions of domestic concerns, governments preferences and council composition variables.

In chapter ?? we will utilise the direct indicator, to determine the effect of diffuse reciprocity on the decision making speed of the Council. Several pieces have suggested that diffuse reciprocity has an effect on decision making time, if these claims are correct we should be able to explain decision making time as a function of diffuse reciprocity.

Chapter ?? will examine the time dependent aspect of diffuse reciprocity through the indirect indicator uncovered above. DIffuse reciprocity is build around the idea of asynchronous exchanges, hence time is a crucial aspect of the theory. Over time we should expect that the norm of diffuse reciprocity is effective in keeping dissenting votes at consistently low levels in the Council. Following the indirect indicator approach this translates into treating abstentions and no votes as two time series that share a common regulating factor.

For each chapter the theory is extended and testable hypotheses are developed based on the premised laid out in this chapter.

Third Chapter

Determinants of Vote Choice

THE Food Flavoring directive adopted in 2008 was a controversial dossier. Especially Germany had issues surrounding the levels of allowed additives derived from aromatic spices and herbs. The dossier was adopted unanimously in the Council, but the German government attached the following statement to their vote.

> "Germany would have preferred a lower coumarin limit for traditional and seasonal bakery ware containing cinnamon than the one now provided for, but in a spirit of compromise can nevertheless support the proposed maximum level"
>
> - Council Monthly Summaries October 2008 p. 21

The dossier had been debated in the Council and parliament since 2006 and the parliament had significantly strengthened the scope of text from the Commission. Among other things, the Parliament proposed to leave an annex regarding the risk of using certain aromatic herbs and spices open until further evidence could be provided to determine the appropriate risk levels. This was welcomed by Germany which had argued that the levels set in the Commission proposal with regards to cinnamon were too high. However the Parliaments amendments was met with opposition from other governments in the Council, who feared that traditional artisans that produced bakery goods with cinnamon would be unnecessarily burdened by a lower limit. Recognizing that the Council could not reach a decision the Commission withdrew the proposal, to redraft it. After several debates in the Council Germany agreed to give in on its reservations.

To explain how decision are made in the European Union (EU), we need to study both the process of negotiation, and the outcome of the negotiation. Voting represents the end point of the negotiation process, and thus offers a snap-shot of how

well the wishes of member states were accommodated in the final dossier. Thus understanding voting behavior in the Council is an important piece of the puzzle towards explaining decision making in the EU. In this chapter the theory developed in chapter 2 will be tested in explaining vote choices of governments in the Council. The voting behavior of Germany on the Food Flavoring directive represents a case where a government set aside its differences and voted affirmative. This sort of behavior is an aspect of decision making not captured in current studies of the Council. Indeed, most studies so far only examine yes votes, no votes or abstentions, hence situations like the one above where Germany expressed strong reservations about the legislation, but still voted yes, are not captured. Including cases like the one above will therefor allow us to study voting behavior in a more fine grained manner. To this end a new data set derived from the data presented in chapter ?? will be used. This data set combines information from the PreLex data base with the vote choices coded from the Council monthly summaries, and allows us to select interesting cases based on their level controversy and importance in the Council.

3.1 Diffuse Reciprocity and Voting in the Council

Social norms offer considerable scope for interpretation, manipulation and choice. To treat norms as monolithic entities that determine social interactions is to revert back to the fallacy of the over-socialized actor that has plagued much of constructivist theory, however to treat norms purely as tools to mask self-interest is to make the fallacy of the under-socialized actor plaguing much of rational choice theory (see Elster 1989 and Schimmelfennig 2000 for good overviews and critiques). The theory of diffuse reciprocity is based around the notion of unanticipated consequences, as exchanges acquire a decidedly social flavor, actors get caught up in the emerging system of debts and credits. It is important to keep in mind that at no point are actors aiming towards such a system, it is an emergent phenomena resultant from the interactions in a social system. Since diffuse reciprocity do not rely on the internalization of a social norm, it is closer to a social equilibrium in which most actors would be worse of if they engaged in off equilibrium behavior. In such a system it is always a possibility that a government choose to pursue its own interest in hope of some short term gain, if the expected gain is higher than the expected long term loss in standing. The pertinent question raised here is when will a government decide to deviate from the exchange system, and pursue its own narrow interests. Drawing upon the work in chapter 2 we can label the incentives to defect in two categories, namely domestic concerns and preferences. These two categories are not entirely mutually exclusive, it is possible that domestic concerns will align with strong preferences against

the final outcome. Furthermore the two categories are roughly correspondent to the classic concerns over whether politicians are mainly driven by the wish to succeed electorally, or to influence policies (Kaare, 1990). There is evidence for both types of motivations in the literature on coalition formation, for instance Martin and Stevenson (2001) show that parties, when deciding with whom to create a coalition, will show concerns for which office they will hold and the policy content of the coalition. In the Council concerns about electoral success can manifest themselves when domestic politics and EU legislation collide. This can often put governments in delicate situations where they must choose between being good members of the EU and appeasing domestic constituencies. The trouble of the reintroduction of the border control at the Danish border is illustrative in this regard. As part of a domestic settlement the Danish government agreed to introduce a limited border control in order to get the votes from the nationalistic Danish Peoples Party (DPP). Since Denmark is a member of the Schengen area, the implementation could only be very limited if should be compliant with Schengen rules. However at home the DPP was claiming that the border controls would be a return to the border control that was in place before Denmark joined the Schengen area (Olsen, 2011; Euractiv, 2011). This put the government in a difficult position where it had to choose between either downplaying the role of the border control, which would offend the DPP, or going along with the DPPs claim which would offend the Commission.

Governments in the Council face two types of domestic constraints. One type can be labelled interest group pressure, and is distinguished by strong interest groups pushing an agenda at the EU level that is not necessarily in line with the preferences of the government. Lobbying has long been part of negotiations in Brussels. Lobbying typically display a pattern where national interests, organized in an umbrella organization, will go through their European counterpart to influence policy makers in Brussels. However often national umbrella organizations will also contact the relevant national ministers directly in order to convince them to push an agenda in the Council (Beyers, 2002). Most often interest groups will focus their attention on changing parts of the legislative text that they are not happy about, however when these efforts have proven futile the focus might be on recommending a government to vote no as a signal of support for domestic concerns. This has the effect of building relations between key constituent groups domestically, but will lower the standing of the government in the Council. The other constraint can be labelled public opinion. If a dossier at the EU level catches the eye of the public in a member state, it can have an impact in the re-election concerns of governments, particularly on EU sceptic member states such as the UK and Denmark. An interesting dynamic that has often been observed in the Council is blame shifting. In multilevel systems it is easy

for institutions at at given level to engage in blame shifting and credit taking for political outcomes (Anderson, 2006). This has been observed in member states where governance is divided between different administrative structures, such as France and Germany (Elgie, 2006). It is no surprise that the same dynamic has also been observed to take place between member states governments and the EU (Franchino, 2004). If governments find themselves under pressure domestically, but are unable to block legislation at the EU level, it is tempting to vote no in order to appease the domestic audience, and blame the EU for forcing unwanted legislation.

In the absence of domestic constraints, governments might find themselves highly disagreeing with the outcome. The theory of diffuse reciprocity will predict that in these situation, the vote choice is dependent upon how much the future is weighted. If an actor has been very active in maintaining exchange relations then the future is weighted heavily, thus we would expect this actor to compromise. However actors that are not active in the system of exchanges will not weight the future very heavily, hence we will expect these actors to vote more along their preferences. This line of argument has been developed by Hø yland and Hansen (2010). They argue that the consensus norm in the Council can be viewed as the propensity to override once own preferences in favor of a consensual decision. They are thus in line with the direct indicator approach specified in chapter 2. In order to further specify this mechanism the authors use a spatial model with an added term to capture any effect of a consensus norm. Assuming that actors operate in a one-dimensional space with a linear loss function, the principle of utility maximization implies that an actor i will vote yes to a dossier if:

$$U_{ik}(-|x_{ik} - p_k|) < U_{ik}(-|x_{ik} - q_k|) \tag{3.1}$$

Where U_{ik} is the utility of actor i on dossier k, x_{ik} is the ideal position of actor i on dossier k, p_k is the position of the proposed dossier and q_k is the status quo. Equation 3.1 thus represents the classic spatial model, to account for the effect of the consensus Hoyland & Hansen add a third term, θ, which is added in linear fashion to the loss function. Hence:

$$U_{ik}(-|x_{ik} - p_k|) > U_{ik}(-|x_{ik} - q_k|) = No \tag{3.2}$$

$$U_{ik}(-|x_{ik} - p_k| + \theta_i) < U_{ik}(-|x_{ik} - q_k|) = Yes \tag{3.3}$$

Theta, if positive, will have the effect of reversing the vote, whereas if set to zero or a negative value will have no effect. According to Hø yland and Hansen (2010) if theta is constant across actors this will be evidence of a norm, however the theory of diffuse reciprocity will expect that there is variation in theta, as it more accurately

reflects the degree to which a given actor is embedded in an exchange system. The authors do indeed find that theta varies significantly across member states in the Council, this is interpreted as evidence against a consensus norm, although it fits with the theory of diffuse reciprocity. The modified spatial model presented by Hoyland & Hansen helps to illuminate some of the dynamics that could explain the effect of the consensus norm. However, like the spatial models covered in chapter 2, the approach can only explain the choice between voting yes or dissent. The model do not provide any clue as to why some governments will abstain or vote no on dossiers. What we can learn from the model is that in the presence of a positive theta, only a strong disagreement with the final outcome will result in a government choosing a dissenting vote.

Based in the above considerations we can formulate the following hypotheses:

> H1: When there is domestic pressure governments will vote no on a given dossier
>
> H2: When governments are preference outliers they will abstain on a given dossier

The social environment is an important aspect of diffuse reciprocity. Only when actors meet and interact on a regular basis can we expect to see a norm of diffuse reciprocity develop. This is often referred to as a process of social learning. In its most simple form this process assumes what Bicchieri, Jeffrey and Skyrms (1997) has called Markov agents, i.e. actors that only use the immediate past to adapt their behavior. Social learning in this context is defined by actors interacting and then updating their beliefs about other actors which might lead to a change in their behavior. If this process is run for a long enough period of time, then the interactions will settle on a specific pattern, and we say that the social system has converged. If we assume that actors memory stretches further back than just the immediate past we get actors that condition their future expectations on the past behaviors of their colleagues, which in small groups with a stable membership can lead to the emergence of diffuse reciprocity. The starting point of this causal chain is the interaction frequency, which is a key variable to account for. This opens up the possibility that a norm of diffuse reciprocity might be present to different degrees in different policy areas based on the meeting frequency of the Council configurations. In policy areas where the Council configuration only meet in-frequently we would expect the norm of diffuse reciprocity to be less strong than in policy areas where the Council configuration meet frequently. For instance in 2010 the General Affairs Council meet 16 times while the Economic and Financial Affairs Council (ECON) meet 29 times,

hence we would expect that the norm of diffuse reciprocity is more present in the ECON configuration. In voting behavior this would manifest itself in fewer instances of governments voting yes to dossiers, but attaching dissenting statements to their votes. This leads to the following hypothesis:

> H3: The higher the meeting frequency the more often we will see governments attaching dissenting statements to yes votes

3.2 Research Design

Case Selection

In order to test hypotheses about voting behavior in the Council it is important to have the proper universe of cases. In most studies of voting in the Council the focus has been on either the entire population of cases, typically aggregated in some fashion. This ignores the possibility that there might be a great number of dossiers in the Council that are mainly technical, and thus do not engender any deal of controversy from the member states government. In these non-controversial cases we should expect the Council to exhibit perfect cohesion with regards to voting. From our perspective these cases are also not interesting as only in cases with some degree of controversy do we expect the norm of diffuse reciprocity to be active. Hence it is important to be able to distinguish between cases in which the preferences of member states are all aligned, from cases in which there was some degree of disagreement within the Council. Indeed including these cases in the analysis risks biasing the analysis towards finding evidence for a high degree of consensus, and hence stack the deck in favor of a consensus reading of the Council.

The first step in the analysis is to define the population of relevant cases. In our case the population is defined as dossiers treated in the Council where there was disagreement about the final outcome. In the literature on decision making in the EU several criteria has been used to separate controversial from uncontroversial dossiers. It has been common in the voting record literature to analyze cases on which there was a dissenting vote separately (Heisenberg, 2005; Hayes-renshaw, Aken and Wallace, 2006; Hagemann and Hoyland, 2008). However this introduces selection bias if the dependent variable is the vote choice of the member states. The DEU project (Thomson et al., 2006) used the criteria of public reporting. If an act was mentioned in Agence Europe it was considered as being controversial. This approach has the drawback that it is not possible to discern whether this controversy represented divisions within the Council, or disagreements between constituent groups and the decision reached by the Council. In order to avoid this am-

biguity I will use a more direct measure of controversy within the Council. The cases used in this paper are selected on the basis of having, at one point, been treated as a B-point in the Council and were defined as definitive legal acts in the Council monthly summaries.

The Council agenda distinguishes between A and B points, where A points are dossiers that do not require discussion at the ministerial level, and B points are dossiers in which no agreement could be reached on working group level and need discussion at ministerial level. It is common practice in the Council that issues that are discussed as B points are afterwards send back to the COREPER for a final drafting and than at a later date adopted as an A point in the Council. In recent years several scholars have noted the presence of "false B-points" (Lewis, 1998; Häge, 2008; Mühlböck, 2011). These are dossiers where agreement has already been reached at a lower level, but are discussed at the ministerial level to allow a minister to make an oral statement. These statements can be used to voice reservations against the dossier, or might be intended for a domestic constituency. Hence from the point of this chapter "false B-points" do not represent a problematic category. The same authors also mention the presence of "false A-points". These are cases where a dossier is adopted as an A-point, but was at some stage discussed as a B-point in the Council. This implies that if we only focus on dossiers that were adopted as B-points we would miss a great number of controversial cases. To account for this the selection rule developed above selects cases that at any point during their treatment in the Council was discussed as B-points in the Council.

The advantage of selecting only cases treated as B-points in the Council is that we are sure to select cases in which there were some controversy related to differences within the Council, and the selection rule does not restrict the variance on the voting outcome. This make it possible to mitigate any potential bias by including non-relevant cases.

A word on the unit of analysis is warranted here. Most studies of the Council have the member state as the unit of analysis, this obviously leads to conclusions on the member state level as well. In some instances where we can expect the preferences of member states to be constant despite changing governments, this is an appropriate unit of analysis, however if we can expect the behavior of delegations in the Council to change as the parties in office change then the assumption is problematic. The natural unit of analysis in the Council is the present government in office, this implies that besides having variation between member states, we can also expect to observe variation within the individual member state as governments change. Ignoring this variation can have quite dramatic effects. To see how this can effect the analysis of voting behavior in the Council consider Sweden. During the third installment of the

social democratic Persson government, Sweden had 28 dissenting votes, thus placing the Persson III government among the most dissenting governments in the 1999 - 2009 period. Compare this to the successor government, the liberal Rheinfeldt government, that only registered a dissenting vote 8 times. The Persson III government was in power for 1446 days, and the Rheinfeldt I government for 1460 days, hence the difference is unlikely to be caused by a sudden bias in the Commission proposals. However the governments differed significantly in how much they deviated from Council median left-right position. The Persson III government had a deviation of 2.27, whereas the Rheinfeldt government only had a deviation of 1.24. Hence the difference in the dissenting behavior can most likely be attributed to ideological differences with the other member states governments. If we were to ignore this and simply lump both governments together as being Sweden, then we would wrongly classify sweden as being a middle of the road member state, while ignoring the great differences in Swedish governments behavior in the Council. Thus the natural unit of analysis when trying to explain Council voting behavior are the governments of member states.

Data and Variables

The dataset used in this paper cover the years 1999 to 2009 and includes every vote in the Council during this time period. In total there are votes registered on 3937 dossiers, which gives a total of 78968 votes cast by member states governments. Of these 13527 where cast for dossiers that at one point was a B point in the Council and treated as definitive legal acts. Beside the vote cast, the data also contains information on whether a statement was registered by any member state, and whether this statement expressed dissatisfaction with the outcome. This coding is more fine grained compared to most studies who either ignore the possibility of registering a statement in conjunction with a vote, or simply code whether there was a formal statement or not.

The focus of this study is the voting behavior of the member states in the Council of the EU. As such the dependent variable is the individual vote choice of the government in power in a given member state. There are three vote choices available to any member state, namely yes, no or abstain. These choices are coupled with the possibility of also registering a statement in conjunction with the vote. Since the theoretical interest is centered around yes votes with a negative statement, the votes have been split into four categories:

1. Yes

2. No

3. Abstain

4. Yes + Statement

Here we have only included the statements that express dissatisfaction with the final outcome. Thus the dependent variable reflect one category of agreement (yes) and five categories of different types of dissent. It is difficult to rank vote choices, they represent different choices which do not have a well defined high and low point according to which they can be ranked. For this reason the variable is treated as being nominal in this paper.

3.3 Descriptive Evidence

As a first look at the data table 3.1 show the distribution of votes across Council Configurations. The number of yes votes, have been left out as they dominates the distribution. Even after having selected only definitive legal acts that where treated as B points in the Council, the number of yes votes is staggering. The second largest category is abstentions. The third largest category, in most Council is a yes vote with a dissenting statement attached. This show that studies not taking Council statements into account risk biasing their findings towards consent. The prevalence of attaching negative statements to supporting votes suggests that there is a large degree of signaling behavior going on in the Council. It is important to let your colleagues know that you are a team player and willing to compromise. This speaks for the interpretation of negotiations in the Council as oriented towards diffuse reciprocity. It is also striking that dissenting behavior is not equally distributed across Council configurations. Agriculture& Fisheries, Competition and Employment, Health & Consumer Affairs exhibit a very high degree of dissent when compared to the other Council configurations. Thus we clearly see some policy specific effects on voting.

In order to gauge the possible effect of the posited explanatory variables it is useful to tabulate them against the dependent variable. In figure 3.2 the squared government distance to the mean government left-right position in the Council has been plotted against the number of abstentions, no votes and yes votes with dissenting statements for each government. The plot is conditioned on whether a government is from an old or new member states, and for each category a regression line has been overlaid.

Consistently across all categories we see a positive relationship between deviance and the number of dissenting votes for old member states, and the opposite, al-

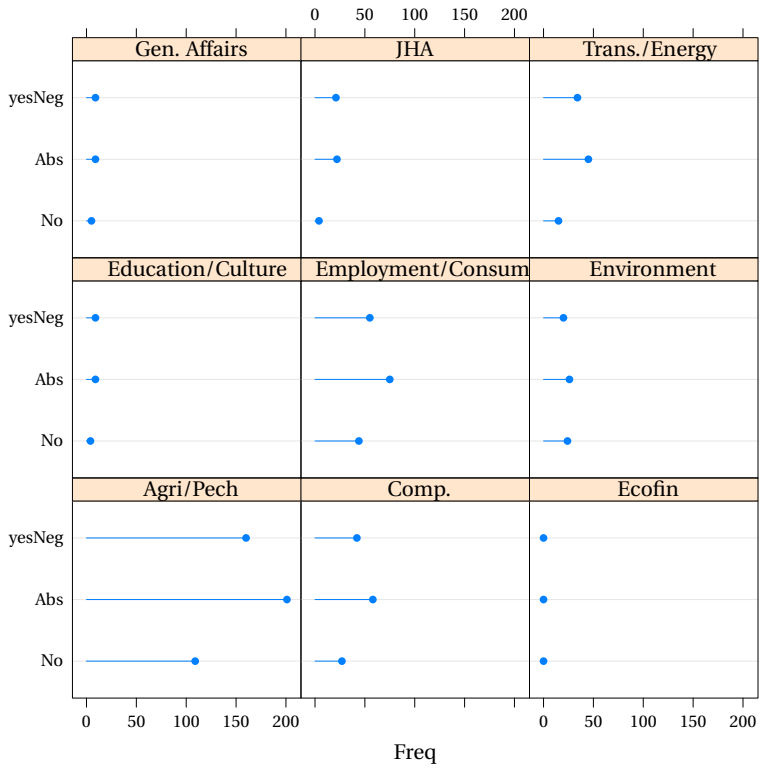
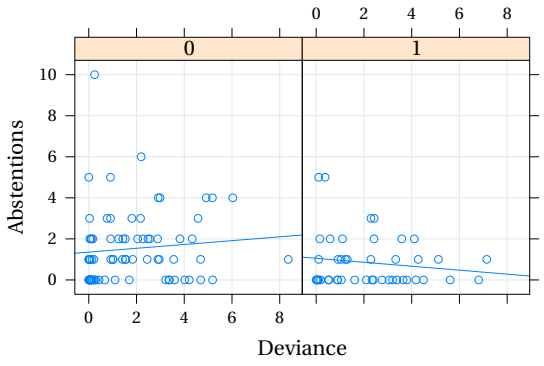


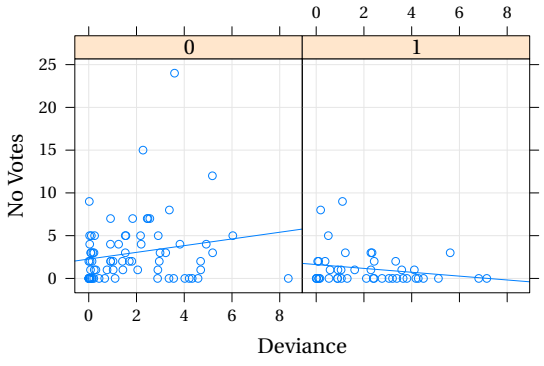
Figure 3.1

though very weak, relationship for new member states. The plots show a somewhat surprising result as most of the literature on the Council show that there was no large effect of the eastern enlargement, but there does seem to be quite a large difference in voting behavior between governments from new and old member states. Hypothesis two is partly supported by Figure 3.2, but only for old member states. New member states do not engage in dissenting behavior to the same extent as old member states, the modus operandi seem to be supportive of the outcome of Council negotiations, regardless of how much the deviate from the Council mean left-right position. Panel (b) in Figure 3.2 is not entirely expected, as the theory of diffuse reciprocity do not link no votes to being an outlier within in the Council, they are supposed to signal back home, despite that a government might be in favor of a dossier. One should be careful in interpreting the figures, though, as we cannot know how many cases there were an overlap of an outlying government that was also under domestic pressure to resist the result of the Council negotiations. We also see that yes votes with a dissenting statement increase as a government becomes more of an outlier in the Council, this is also what we would expect as in these instances the norm of diffuse reciprocity should be effective.

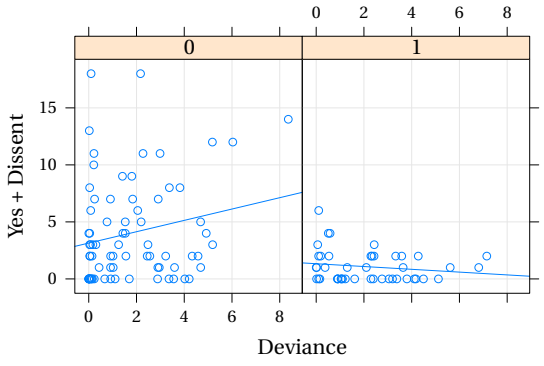
The examine hypothesis three initially presents some obstacles. To avoid the ef-



(a)



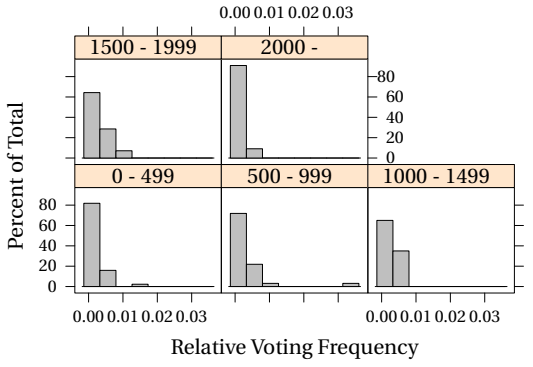
(b)



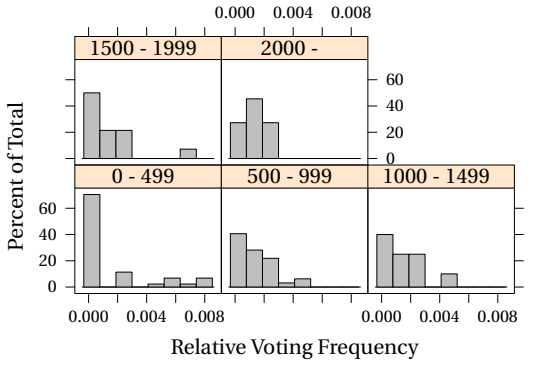
(c)

Figure 3.2: The plot show the squared deviance from the mean left-right position in the Council on the x-axis, and the number of abstentions on the y-axis. The values have been conditioned on whether a government was from an old or new member state.

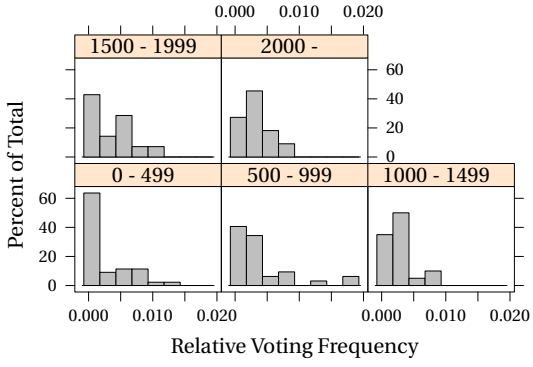
fect of time, i.e. the longer a government has been in the Council the more likely it is to have cast a dissenting vote, the number of votes in a given choice category relative to the time spend in the Council were plotted, conditioned on the time spend in the council. The y-axis show the density within each category, while the x-axis show the relative voting frequency.



(a) No Votes



(b) Abstentions



(c) Yes Votes with a Dissenting Statement

Figure 3.3: The plots show the conditional distribution of relative voting frequencies within each time category.

The important aspect to notice in Figure 3.3 is that for the no votes, conditioning on meeting frequency does not change the distribution in any significant way. The choice to cast a no vote is independent of the time spend in the Council. This corroborates the thesis that no votes are signaling devices aimed at domestic audiences, as the interest of domestic audiences in the dossiers coming from the Commission are independent of time. For abstentions and yes votes with a dissenting statement we see that the number of governments that has not cast a vote in this category decrease as time passes, lending partial corroborating evidence for hypothesis three.

3.4 Inferential Analysis

In order to further test the hypotheses we turn to statistical modeling. The dependent variable is the vote choice of the individual government, since it is difficult to rank the variable a multinomial logistic choice model is appropriate. The multinomial model is a generalization of the logistic regression model, basically dividing the choice categories into pairs, and estimating a logit model for each pair. The model equations can be written as:

$$Pr(y_i = k) = \frac{exp(x_i\beta_k)}{\sum_{j=1}^{j} exp(x_i\beta_j)} \tag{3.4}$$

Where for the ith individual y_i is the observed outcome, x_i is a vector of explanatory variables, and β_k is a vector of parameters associated with the single choice, and β_j is a vector of parameters associated with the alternative choices. Equation 3.4 nicely illustrate that coefficients in the multinomial model are relative to each other, i.e. unlike in most regression models we cannot make any absolute statements about effect, but only make statements about effect sizes relative to different choices. Furthermore the coefficients, bar the last statement, can be interpreted much like any standard logit model.

The multinomial model is suitable first and foremost as they do not make any assumptions about the ordinality of a variable, furthermore they do not make any assumption about normality, linearity and homogeneity of variance of the independent variables. Thus these models represent a very flexible modeling framework when dealing with choice categories. However there are two crucial assumptions made in these models which must be justified. The first assumption is commonly labelled independence of irrelevant alternatives (IIA). This assumes that the results from the analysis would not change if we threw in another choice category which would clearly be irrelevant to the problem being modeled. The classic example is the study of modes of transport. If subjects has to make a choice between taking the bus,

ride a bike or taking the car to work, then the results from such an analysis should not change if we added two bus categories, one with red busses and one with blue busses. Since the color coding of busses should be irrelevant we would expect the subjects to randomly choose between the two busses. In the Council data we already have an exhaustive list of choice options, and it is not cleat which alternatives that could be added, hence the IIA assumption is not judged to be a problem with the data at hand. The second, more serious, assumption is that we have enough data to cover the different cells created by the tabulation of the dependent and independent variables. Because the model uses multiple equations and a maximum likelihood estimation technique there are high demands on sample size. A rule of thumb is that the case to variable ratio should at least 20:1, in the analysis conducted here the maximum number of variables used are 100, since we have a sample size of 13527 this gives a ratio of ca. 135:1. Hence sample size is not a problem for the analysis.

Hypothesis one states that the choice to vote no is governed by domestic pressure. It is very difficult to get a measure of domestic pressure for each government on each dossier, hence the testing of this hypothesis presents some difficulties. It is well known that some member states have national interests that are independent of the government in office. Spain, for instance, commands the largest fishing fleet in the EU, and the fishing industry employs a large share of the Spanish workforce. Thus Spain is under pressure to ensure optimal conditions for the fishing industry, including making sure that the vessels are allowed to catch as many fish as possible. Likewise Germany is a heavily export oriented economy, hence with regards to the internal market they are likely to resist any attempt to restrict the free movement of goods. The considerations laid forward here implies that there can be country and policy specific domestic constituencies that can pressure governments. In order to account for this we have included a separate analysis for the major policy areas and in each model member state dummies are included. If a member state dummy is significant we can attribute this to member state specific effects. Controlling for other relevant variables, any effect is likely due to domestic political concerns.

With regards to hypothesis two a continuous direct measure of outlier status is calculated by the following formula:

$$O_i = (a_{pi} - \bar{x}_p)^2 \tag{3.5}$$

Where O_i is the outlier status of government i, a_{pi} is the left-right position of government i, and $\bar{x}_p$ is the mean government position in the Council. This variable should be highly significant in determining whether a government will abstain or not on a given dossier.

Finally, for hypothesis three we use a measure of meeting activity within the Council configuration under which a dossier was treated. The measure is a count of all the meetings in a given year for a given Council configuration, and thus only varies on a yearly basis. One potential issue with this variable is that it assumes the same degree of socialization at the beginning and end of a year, thus any governments entering the Council will be associated with a degree of socialization that might not be appropriate. This is, however, mitigated by the fact that the permanent representatives in the Council usually survive the governments, and thus they can be counted on to pass on their knowledge of Council negotiations to new governments.

Control Variables

There are a number of possible confounding variables that must be included in the analysis to properly estimate the independent effect of our main variables. The usual suspect are power, the presidency and budget considerations, below each variable will be considered in detail.

Many scholars argue that more powerful member states use their power to influence the final outcome. Power is a difficult concept to measure. Most studies on the Council distinguish between powerful actors along three closely related dimensions, namely number of votes in the Council, size of a member state and GDP (either per capita or absolute). Number of votes and population size are closely, although not linearly, related. Indeed number of votes in the Council is a function of the population of a given member state. There is a large literature on a priori power of member states utilizing voting power indexes. It is well known that often the raw number of votes do not translate directly into influence (Gelman, Katz and Bafumi, 2003). However in the Council the shapley-shubik index provides the same ranking of member states as the raw number of votes. Measures of GDP have been used in a number of studies as a measure of economic power (de Soysa, Oneal and Park, 1997). However the use of GDP per capita in a EU context poses significant problems. In the EU there are a num- ber of smaller very affluent states (Luxembourg is the classic example). These states all score very high on this measure, even surpassing the UK, Germany and France, whereas in absolute terms they are dwarfed by the big member states. That big member states enjoy more latitude due to their dominance in terms of population and GDP at the sum- mit level has been documented by Tallberg (2008) In a series of elite interviews with heads of state and senior negotiators he find a general consensus among summit participants that population and economic size is directly related to the influence a member state can wield. how- ever at the Council level there does not seem to be much of an effect of GDP and decision making in the

Council (Heisenberg 2005). In the literature power is hypothesized to have two effects. First, influential states will be able to move outcomes closer to their ideal, and thus we should expect states witha high GDP and votes in the Council to vote yes more often than their counterparts. Second, influential states will be more willing to make their differences with the Council majority public, and thus they will tend to vote no or abstain more often than small member states (Mattila, 2004). These two effects are not mutually exclusive, instead they refer to the situation where large member states might find themselves being preference outliers, and hence not able to move outcome close enough to their ideal point. In these situations it is hypothesized that large member states,having a high degree of influence, and being involved on more issues than smaller member states will express their dissatisfaction. The underlying mechanism is one where powerful member states (in terms of size and GDP) will have more ressources available when negotiating in Bruxelles. This allows them to be active on more dossiers, thus increasing the chance they might find themselves in a minority position. Smaller member states will focus their ressources on key dossiers. This implies that there is an interaction effect between preferences and power. Large member states who are also preference outliers will vote no more often than small member states, regardless of whether the smaller member state is a preference outlier or not. Hence it is important to control for the potential power of a given government. To make the variables easier to interpret in the analysis the raw vote count of each member state is used in the analysis as a control for the potential power of governments.

The Council of the EU has unique institutional feature in the rotating presidency. The presidency follows a six month rotation, and it is custom that each presidency identifies key issues that will be the focus for the next period. The original intention with the rotating presidency was to distribute authority within the EU, in order to avoid concen- trating agenda setting powers on any group or member state (Kollman, 2003, p. 54). The presidency has recently been studied in quite some detail. From a qualitative perspective Tallberg (2004, 2001, 2003) has provided a series of in depth case studies detailing how member states can use the presidency to influence negotiations. Tallberg locates the source of the influence the presidency can wield in its position as an âĂIJhonestâĂİ broker. By virtue of this position the presidency gains insight into the positions of the conflicting parties. It is not unusual in Council negotiations that the presidency has private âĂIJconfessionalsâĂİ with member states that prevent a decision to be reached (Tallberg, 2004, p. 1004). The presidency also has a praxis of touring the capitals of member states in order to collect information on difficult dossiers. All Council sessions are managed by the Presidency, which can con- trol the agenda and style of session (i.e. with or without senior civil ser-

vants). FInally the presidency has the prerogative of proposing a compromise text which, if agreed upon in the Council, will supplant the text from the Commission. These attributes of the presidency gives the government currently in the seat considerable scope for influencing the outcomes of negotiations. However there are limits as the presidency is build on an informal praxis, and has very few formal powers. Thus if a presidency blatantly misuses the information gained in the confessionals, the member state risks not only that the other Council members will not accept any compromise proposals put forth, but also undermining the foundation on which the presidency is build. How- ever, that member states do use the presidency for their own gain has been amply documented in literature. During the end negotiations of the transparency regulation in 2001, the Swedish presidency where actively promoting their own agenda, but:

> "Swedish activities during the transparency negotiations brought considerable criticism. The constraining force of the norm is still evidenced by the efforts made to keep the appearance of being impartial"
>
> - Bjurulf and Elgstrom 2004, 264

From a quantitative perspective the presidency has also attracted considerable attention. Schalk et al. (2007) use the DEU data to test whether the member state holding the Council presidency is able to influence the outcomes. They find that there is only an effect of the presidency in the final stages of negotiation, where as government that precede when a dossier is introduced do not have any significant influence. This finding has been replicated by Warntjen (2008) in a regression analysis controlling for process, voting rule, and type of legal act (using the same data). He finds that the effect of holding the presidency during the final stages of a negotiation shifts the outcome closer to the member states preferences by a factor between 2 and 4, depending on the model, in comparison to not having the presidency. The evidence speaks for an effect of the presidency in the Council, although one should keep in mind that the DEU data used only contain dossiers from 2000-2001. Thus it is not clear if the presidency effect is consistent over time or not. However the effect on voting behavior is straight forward. If the council presidency has to give the impression of being impartial, and the presidency is able to influence the outcome considerably, we should expect to see governments holding the presidency exhibit a markedly non-conflictual voting behavior.

A popular distinction between member states in the literature on the Council is between net contributors to the budget and net beneficiaries from the budget. A common argument is that member states that contribute more than they gain from

the EU budget will be more inclined to demand to keep expenses to redistributive programs as low as possible. In the words of Zimmer et al.:

> "To a certain extent, the wealthy member states are willing to buy of the consent of the poorer nations by means of sub- sidies."
>
> - Zimmer, Schneider and Dobbins 2005, 407

One proposed mechanism behind this "buy-out" of poor member states, is that typically the more wealthy member states are also export oriented. In order to have a functioning internal market the poorer member states must allow the import of goods from other member states, but they stand to gain less from the opening up of the other markets. In order to compensate for this perceived injustice more of the EU budget is allocated to these states, with the implicit understanding that they will not block the decision making process in the Council (Hix, 2005). The implication is that member states that receive large amounts of funding through the different funds of the EU, should be less conflictual in Council negotiations, as long as their subsides remain untouched. Given that subsides are mainly given in the agricultural and regional policy areas, we should expect net beneficiaries to oppose any change in these areas, whereas they will act consensual in other policy areas. In this sense it is important to control for whether a member state is a net-beneficiary or not, and introduce a dummy for agricultural and regional policy areas.

It is also important to account for any procedural aspects that might confound the results, hence the voting rule and legislative instrument are included as control variables. The independent variables are measured on two levels, namely the dossier level and the member state government level. The member state government is the lowest level in the data, and are nested with the dossier level, such that for each dossier we have recorded between 15 and 27 votes that are attributed to governments from the member states. Table 3.1 show the independent variables along with the source and descriptive statistics.

Analysis

Due to a high degree of collienarity between some variables and the presence of many empty cells in the data set, the analysis will focus on three policy areas in which the data is sufficient. These policy areas are agriculture and fisheries, competition and employment and consumer affairs. Two variables in the data set are highly collinear, namely the raw vote count and the member state dummy variable. Two models were estimated for each policy area, one with the raw vote count of member states, and one with member state dummies. There were no substantial difference

Variable	Description	Source	Mean/Mode/Median	Standard Deviation
Left-Right	The position of each government on a 0 to 10 scale, where 0 is most left and 10 is most right.	D\"{o}ring and Philip (2010)	5.33	1.42
Votes	The number of votes a given member state has at its disposal.	Council	5	6.98
Presidency	Categorical variable coding for which member state holds the Presidency at the time of voting.	Council	-	-
Net Beneficiary	The net amount of contributions to the EU mins the net amount of funds received from the EU.	EU Budget Reports	-0.16	178.84
Meeting Frequency	The number of sessions per year for the different Council configurations	Council	8	4.64
Voting Rule	A dummy variable coding 0 for unanimity and 1 for QMV.	Council	-	-
Type of Legal Act	A categorical variable coding whether a dossier was a directive, regulation or decision	PreLex	-	-

Table 3.1: Independent Variables

between the two models, and in order to account for member state specific effects, the results from the model with member state dummies are reported in this section. Due to the complexity of the models, in this section only the predicted probabilities from the models are presented.

In figures 3.4 and 3.5 the predicted probabilities from the employment and consumer affairs model are depicted. For each choice category the other variables have been held constant at their mean/median values. The effect of the variables allowed to vary has been plotted for each member state. The reference category has been defined as voting no, hence the probabilities plotted are all relative to the probability of voting no.

In agreement with hypothesis two there is a substantial effect of the deviance variable. The more a government deviates from the mean left-right position in the Council, the more likely it is that said government will either abstain or attach a dissenting statement to a yes vote. Likewise the chance of simply voting yes on a dossier decreases with the deviance. It is corroborative of the diffuse reciprocity theory of voting, that we do not see a simply decrease in all the plotted choice categories, which would indicate that there is a corresponding increase in the probability of voting no. Rather we see that there is also a relative decrease in the probability of voting no, compared to abstaining and attaching a dissenting statement to a yes vote. Furthermore there are some strong member state specific effects. Given that policy area is controlled for by estimating separate models for the three most active policy areas,

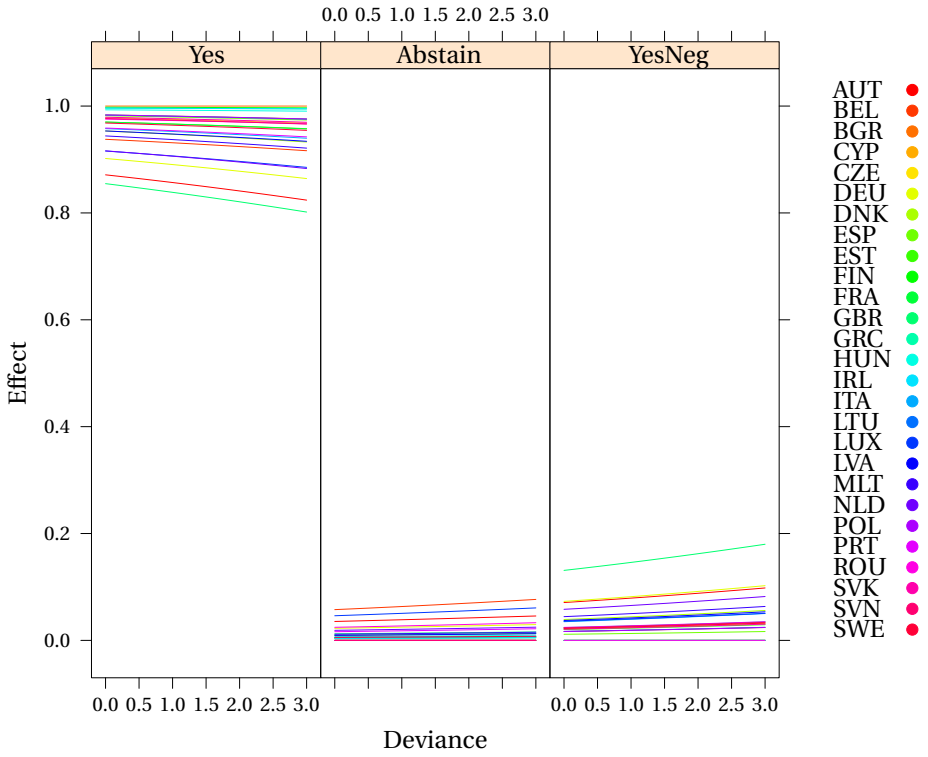


Figure 3.4: EMPLOYMENT AND CONSUMER AFFAIRS: The effect of deviance from the mean left-right position on voting either yes, abstain, or attach a dissenting statement to a yes vote, relativ to voting no, in the employment and consumer affairs Council.

and that the models include controls for the major theoretical explanations of voting in the Council, the member state effect can be attributed to idiosyncrasies within the member states. The most likely type of idiosyncrasy to effect voting in the Council are domestic political concerns, specifically domestic interest groups. Finally we also see that the new vs. old pattern found in Figure 3.2 is to some degree present in the fields of employment and consumer affairs. The strongest effects are found for large member states that were members before the eastern enlargement, whereas smaller member states that joined after 2004 tend to vote yes more often than other member states. However, one should not overstate the effects, as the differences between most member states are not significant. Hypothesis three does not find strong support in the employment and consumer affairs policy area. An increase in meeting activity increases the number of affirmative votes, and at the same time lowers votes in the abstention, no votes and dissenting statement categories. The effects of the meeting frequency variable are, however, not very large. As the meeting frequency approaches 10, most member states will prefer to vote yes compared to no,

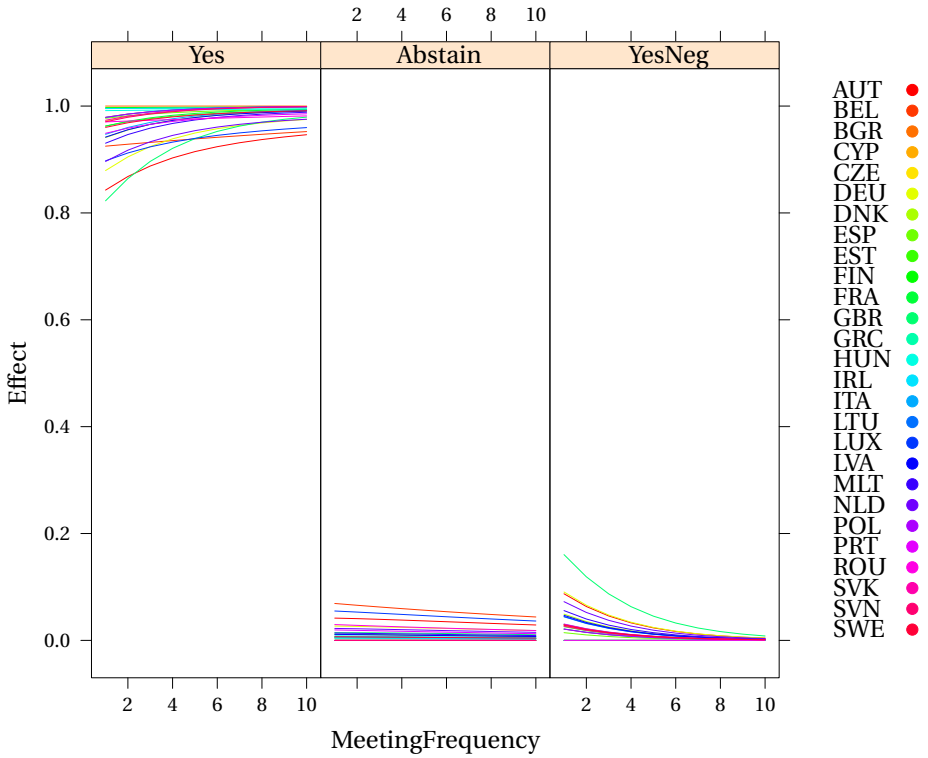


Figure 3.5: EMPLOYMENT AND CONSUMER AFFAIRS: The effect of meeting frequency on voting either yes, abstain or attach a dissenting statement to a yes vote, relative to voting no, in the employment and consumer affairs Council

but they will also rather vote no than abstain or attach a dissenting statement to their yes votes. One should not overestimate the impact of this variable, the increases and decreases in the probability of voting anything other than yes, are for most member states very small. The one exception to this patter is the UK, which sees quite a large effect in meeting frequency, making the UK considerably more likely to vote yes when the ministers meet 10 or more times a year. Of course at this meeting frequency all member states will practically vote yes with a probability close to .9. The probability of attaching a negative statement to a affirmative vote is at the highest meeting frequency practically zero, which is in direct opposition to the hypothesized effect.

In Figures 3.6 and 3.7 the predicted probabilities for the agriculture and fisheries Council are shown. Just as with the models for the employment and consumer affairs models, the predicted probabilities are based on models where the control variables have been held constant at their mean/median values, and the reference category has been set to no votes.

With regards to hypothesis two there is strong support, as the only substantial

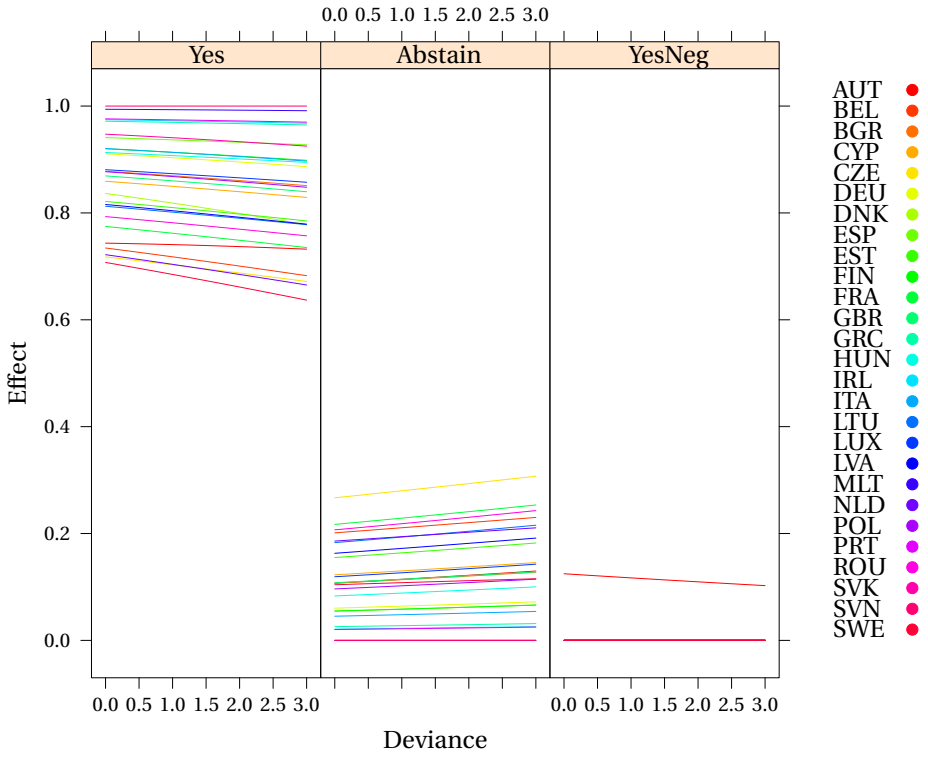


Figure 3.6: AGRICULTURE AND FISHERIES: The effect of deviance from the mean left-right position on voting either yes, abstain, or attach a dissenting statement to a yes vote, relativ to voting no, in the agriculture and fisheries Council.

effects are found when the choice is between voting no or abstaining. The more a government deviates from the Council left-right mean, the higher the chance of choosing to abstain, rather than voting no. The is not much of an affect of the deviance variable for the other choice categories. It is worth noting, though, that there are some large differences between member states, but this does not translate into much of an effect. Most member states tend to have a fairly flat curve, but the difference tends to be in where the intercept is located. For hypothesis three we see the same pattern in agriculture and fisheries as we did in the employment and consumer affairs policy area. There is a substantial effect of meeting frequency, however the effect on yes votes with dissenting statements is opposite the hypothesized effect. According to the model, an increase in meeting frequency will lead to an increase in yes votes, and a decrease in all other vote categories. Again we see large differences between member states, however when examining the meeting frequency variable the differences also represent substantial effects. As the meeting frequency increases, the differences between member states start to converge towards a high probability of voting yes, with corresponding decreases in the probabilities for voting no, ab-

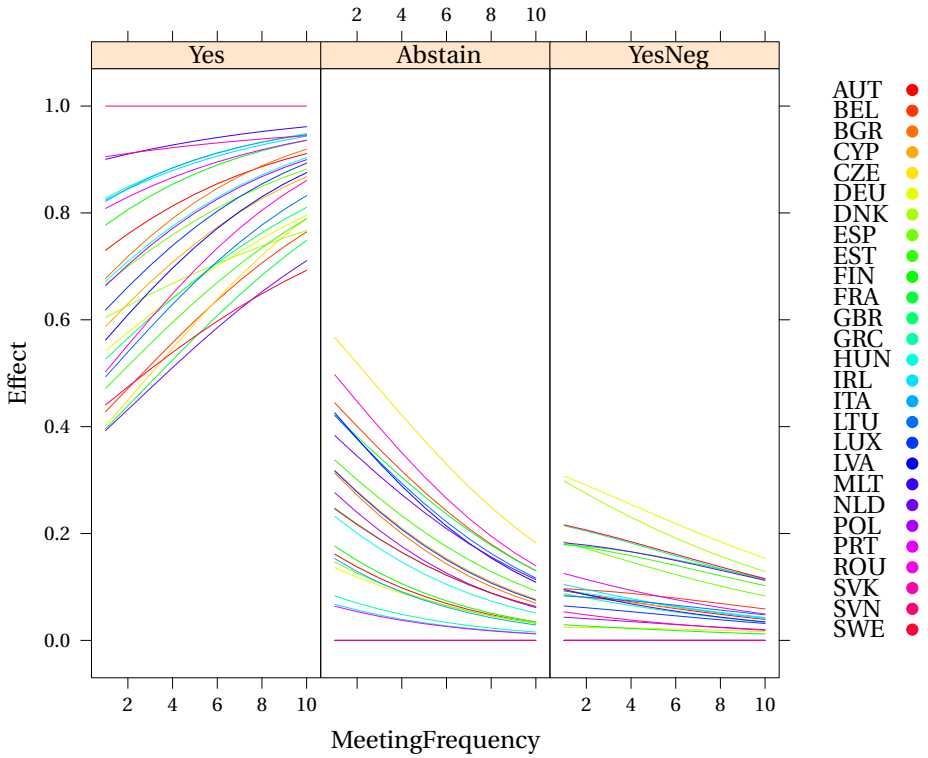


Figure 3.7: AGRICULTURE AND FISHERIES: The effect of meeting frequency on voting either yes, abstain or attach a dissenting statement to a yes vote, relative to voting no, in the agriculture and fisheries Council

staining or attaching a dissenting statement to a yes vote. Finally, it is worth noting that we do see the largest effects in old member states, whereas the new member states tend to have a very high baseline of affirmative votes, hence the effects tend to be smaller for new member states.

Figures 3.8 and 3.9 show the results from the analysis on the dossiers from the competition Council. Again the predicted probabilities are based on holding all control variables constant at their mean and median values, and the reference category is defined as no votes.

In the competition Council there is practically no effect of deviance from the left-right Council mean. There are differences between member states, however the rate of change for all member states is close to being zero. However, with regards to meeting frequency there are some very strong effects. Competition is the only policy area studied here were we see the hypothesized effect of an increase in yes votes with a negative statement as meeting frequency increases. This is corroborated by a dramatic drop in abstentions, which indicates that with an increase in meeting frequency, most governments get more involved in a system of exchanges,

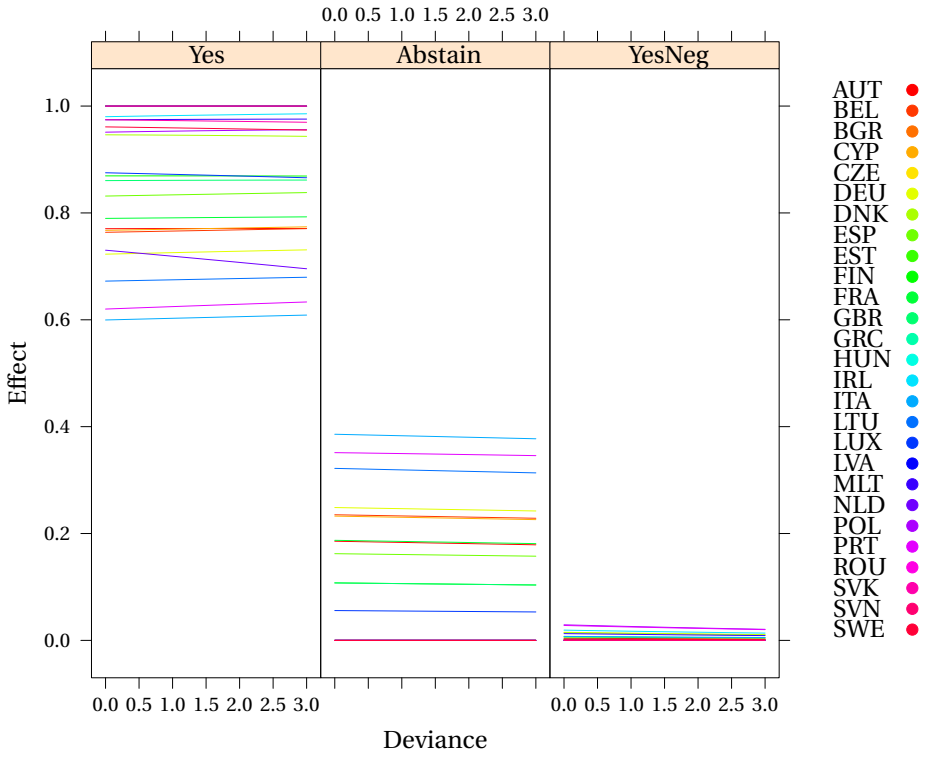


Figure 3.8: COMPETITION: The effect of deviance from the mean left-right position on voting either yes, abstain, or attach a dissenting statement to a yes vote, relativ to voting no, in the competition Council.

leading them to attach statements to votes on dossiers in which they are not happy with the outcome, rather than abstaining. This is strong corroborating evidence for hypothesis three. In opposition to the other policy areas modeled, the competition Council show very diverging effects on the probability of voting yes, as meeting frequency increases. For some member states we see a positive rate of change, whereas for others the rate of change is negative. A negative rate of change as meeting frequency increases, is indicative of some domestic issues for the member states exerting pressure on the voting behavior in the Council. The more time a government from member states with a negative rate spend in the Council, the more likely it is to vote no, thus indicating that competition is a very sensitive policy area in some member states. Hence we see some support for hypothesis one.

From the above analysis it is clear that there are large differences between policy areas. Only in the fields of employment and consumer affairs, and agriculture and fisheries did the deviance variable have the expected effect. Although the effect might seem rather small, due to the large number of cases analyzed, a five percent increase of 100 to 150 votes in the chosen category, depending on the policy field.

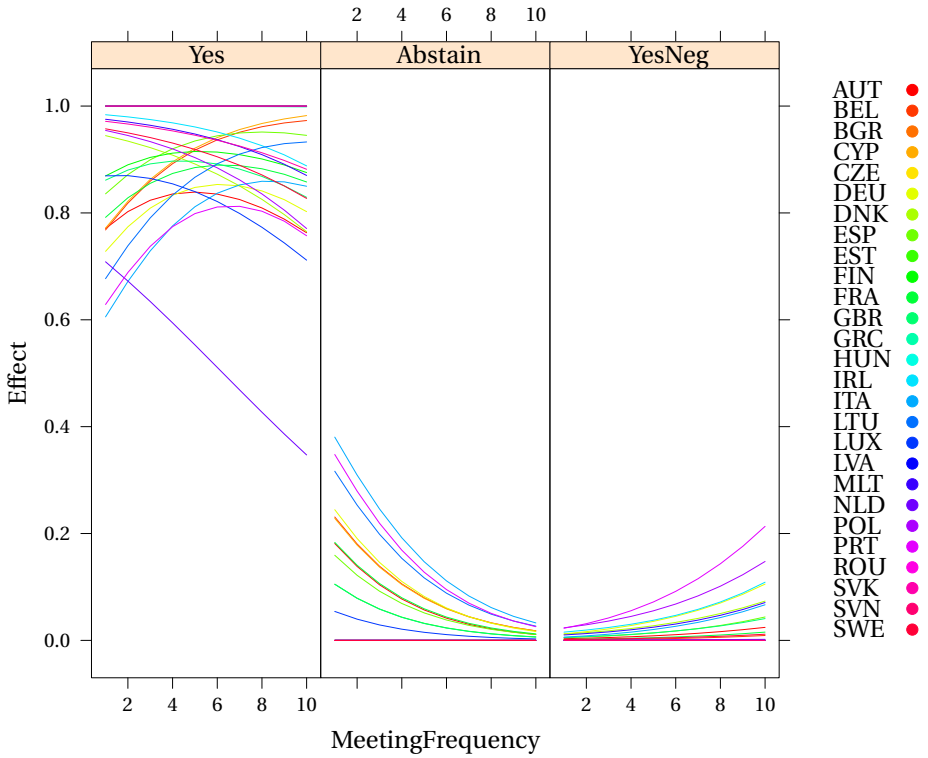


Figure 3.9: COMPETITION: The effect of meeting frequency on voting either yes, abstain or attach a dissenting statement to a yes vote, relative to voting no, in the competition Council

Given that in the data yes votes are the dominant category, a five percent increase in any other category represents a substantial effect. Hence, we find some evidence that abstentions are used as signaling devices internally in the Council, although the effect is policy area specific. With regards to the meeting frequency variable the hypothesized effect is only found in the competition Council, whereas in the other policy areas the tendency is to converge towards agreement as meeting frequency increases. Indeed the competition Council emerges as a special case in the analysis. Here we find support for hypothesis one and three, however hypothesis two is not supported. Furthermore in the competition Council we see the largest substantial differences between member states for the meeting frequency variables, whereas the deviance variable has practically no effect. In the other two policy areas roughly the same pattern was found, i.e. support for hypothesis two, while no support for hypothesis three. Hence the hypothesized effects are distributed unevenly across policy areas. Furthermore the large effects tend to be driven by old member states. These mixed effects demonstrate clearly that there is some support for the theory of diffuse reciprocity, but that the theory can only explain parts if what is going on in

the Council. This lends credence to the statement by Elgstrom and Jonnson, that the council is made up of:

> "[...] a predominant problem-solving approach with islands of conflictual bargaining.
>
> - Jönsson 2000, p. 697

3.5 Conclusion

In this chapter the implications of the theory of diffuse reciprocity on vote choice in the Council were tested. By combining data from PreLex and the Council monthly summaries it was possible to select cases that all had an element of conflict in them. This was necessary as non-controversial dossiers do not contain any meaningful information when studying decision making in the Council. The data was then disaggregated into each vote for each government in each member state of the EU. This allowed the use of a multinomial logit model to model the vote choice of the individual government. The implication being that studies who only focuses on member states risk biasing their analysis as governments change. The effects found here are, however, non-conclusive. Deviance from the mean left-right Council position tend to make member states use abstentions more, relative to voting no, and in the Council on employment and consumer affairs deviation will also lead to an increase of yes votes with a dissenting statement relative to voting no. In the competition Council, though, this effect was not found. This type of voting behavior is difficult to reconcile with either a pure rational-institutionalist argument or a pure constructivist argument. In stead the answer is complex and lies between the two poles. Governments seem to engage in both direct and diffuse reciprocity.

Meeting frequency does play an important role in structuring the behavior of governments. In the fields of employment and consumer affairs and agriculture and fisheries, the more frequent the ministers meet, the more they tend to converge towards voting affirmative for dossiers. In the field of competition, however, we see the presence of strong national interests making the effect of the variable less uniform. The voting behavior observed in the competition Council with regards to meeting frequency is what we would expect to see when a system of exchanges has been established in a field where governments are exposed to strong domestic pressure. In the other policy fields the results point more towards a classic socialization mechanism.

To summarize the findings in this chapter, there is some evidence for diffuse reciprocity in the Council. However, the evidence is not unanimously in agreement,

there are differences between policy areas, and each policy area present different types of corroborative findings. Hence it is clear that there is more going on in structuring the vote choices of governments than is captured by the theory of diffuse reciprocity. But it is important to also notice that diffuse reciprocity does play a role when governments vote in the Council.

Fourth Chapter

Of Norms and Time

VOTING behavior on the Council has for some time now been of great interest of scholars. Several studies has been carried out which look at different periods of voting in the Council. The common finding for all studies is that the level of consensus is remarkable high and stable over time (Mattila and Lane, 2001; Mattila, 2004, 2009; Heisenberg, 2005; **?**). This research has greatly strengthened our knowledge on the Council. The claim that a consensus norm determines how voting behavior is structured in the Council is often made on the basis of the results from this literature. The consensus hypothesis, simply put, argues that the institutional setting of the Council furthers a high degree of trust among representatives of the member states. This in turn allows for member states to engage in diffuse reciprocity when sequencing exchanges (Elgström and Jönsson, 2000; Lewis, 2000, 2003; Heisenberg, 2005). This is a very effective mechanism to promote long term cooperation, and is claimed to explain the high degree of consensual voting in the Council. So far this, however, has not been properly tested. For the consensus hypothesis time is a very important factor, as actors must have long time horizons for diffuse reciprocity to function. All studies so far has treated voting as being independent of time, and simply examined how the levels of consensual and conflictual voting change in different time periods, and how aggregate voting behavior can be used to examine the dimensionality of Council voting. However if the consensus hypothesis is correct then voting behavior in previous time periods will have a strong influence on voting behavior in the present time period. This implies that there is a long institutional memory in the Council which affects voting behavior. In technical terms voting in the Council can be viewed as a long-memory series (Beck, 1992; **?**; Calderia and Zorn, 1998; **?**). This is a key implication which is exploited in this paper. Norms are notoriously difficult to study empirically (Epstein, Segal and Spaeth, 2001). The effect of the long institutional memory is to keep conflictual voting behavior locked in at low levels, if these levels are determined by a consensus norm

they should be linked together by an underlying unobserved cause. In this paper this underlying cause will be referred to as the consensus norm, and using recent developments developments in time series analysis it will be tested whether this cause is present or not.

This chapter begins with a discussion of the consensus norm as a equilibrium induced by the social environment of the Council. This discussion is then tied to methodological issues of, showing how the consensus norm has important implications for the level of conflictual voting in the Council. It is demonstrated that a presence of a consensus norm should show itself as a cointegrating relationship between two types of conflictual voting. Since it has been argued that Eastern enlargement should have had a large effect on voting behavior in the Council; specifically we should have observed more conflictual voting, the impact of enlargement is examined on the overall levels of conflictual voting. An error-correction model of conflictual voting is estimated, and the implications are discussed.

4.1 Theory

Norms as Equilibria

Often norm driven behavior is described i a loose sense of shared expectations about appropriate behavior. This idea has in particular been developed by Bicchieri (1990); **?**, 2006). According to Bicchieri a norm depends on an array of expectations and beliefs. Indeed, following Bicchieri, we can define behavioural regularity R in population P as a norm if:

1. Almost every member of P prefers to conform to R on the condition (and only on the condition) that almost everyone else conforms too.

2. Almost every member of P believes that almost every other member of P conforms to R.

The conditions for when we can expect to observe behavior based on beliefs and preferences about other actors are a social setting with a limited number of actors, who repeatedly interacts with each other (**?**, 32). These are conditions which has been stressed continuously in the literature on norms as being the preconditions for normative behavior. It is often argued that the insulation of Coreper combined with a high frequency of meetings in different policy areas, with a set of participants that rarely change, are the ideal preconditions for the rise of normative behavior (Lewis, 2003; Heisenberg, 2005). It is argued that these preconditions leads to an atmosphere of trust among the participants and a long institutional memory. The time

dimension of the institutional environment in the Council has been referred as being "essential" for the development of a problem solving approach to negotiations (Elgström and Jönsson, 2000). When the same group of people work together for an extended period of time in a highly institionalized setting the shadow of the future becomes very important. In such a setting diffuse reciprocity is likely to emerge. The reason being that the future is now important relative to the present, and thus an obligation incurred in the present is likely to be reciprocated in the future (Elgström and Jönsson, 2000, p. 688). The fact that an obligation do not have to be reciprocated immediatly has immense effects of the way interactions can be structured. It allows for sequential exchange which reaches a long way into the future, which subsequently allows the accumulation of "debts" and "credit" among actors. This promotes long term cooperation very effeciently (Keohane, 1986). Diffuse reciprocity is therefore the key mechanism that allow for the existence of a stable norm of consensus. Furthermore It is the sequencing of exchange that makes diffuse reciprocity efficient in bringing about consensus. That diffuse reciprocity is an important mechanism for creating consensus in the Council has also been noted by Lewis who writes:

> "This diffuse form of reciprocity is reinforced weekly by the horizontal nature of COREPER agendas, and the commonly cited observation that when dealing with this many subjects no one can expect to be a *demandeur* every time and still expect any kind of understanding when their needs are not being met."
>
> - Lewis 2000, p. 268

In this sense a consensus norm can also the thought of as a social institution that provide information about how representatives of member states are supposed to act when negotiating a dossier. There is a natural affinity between this conception of the consensus norm and the concept of equilibrium used in game theory. The consensus norm represents an equilibrium reached among the member states in a highly institutionalized and dense setting. No actor given current information and its current position can do better by acting against the norm on its own (Calderia and Zorn, 1998, 876). If the consensus norm indeed represents a social institution in the Council, then member states will know when it is appropriate to voice their disagreement, either through negative votes or abstentions.

However, norms are not immutable, and they can and do change over time, they can fail or in some circumstances break down completely (Bicchieri, 2006). Changing the external conditions that lead to the development of the current norm can have implications for how well the social institution is applicable in the new environment.

For the Council of ministers in the EU eastern enlargement represents such a change in the environment. The entry of a large group of new member states into the Council represents an external chock to the consensus norm, however if the norm is a true equilibrium we should expect to see a stabilization of interactions among member states and the consensus norm should reequilibrate itself.

Eastern Enlargement and the Norm of Consensus

The Eastern enlargement has been viewed as a crucial event for the EU. With the addition of ten new member states it was widely predicted that the legislative machinery would have to change radically in order to be able to function efficiently. The reforms introduced in the Nice treaty was viewed as not sufficient to accomplish this, and it was widely predicted that a legislative gridlock would emerge (Tsebelis and Yataganas, 2002; Konig and Brauninger, 2004). In terms of a possible disruption of an equilibrium the Eastern enlargement is a prominent candidate. Ten new member states with heterogenous preferences, and from countries with very different traditions and economic conditions could spell the end of a normative equilibrium. This points to possible short and long term effects of Eastern enlargement. If behavior in the Council is based on a strong normative equilibrium induced by the social environment, then we should expect to see possible short term effects of enlargement, which would then disappear as the Council is reequilibrated. This is consistent with the adaptation hypothesis proposed by Bailer, Hertz and Leuffen (2009), in which the new member states are expected to behave out of equilibrium for a short period of time, however as they begin to adopt to the ways of doing business in the Council the hypothesis expects a return to the old equilibrium. In order to take this possible effect into account when testing for the consensus norm, the models are all estimated with enlargement dummies.

Voting Behavior and the Consensus Norm

In this study the mechanism explicated above will be tested using Council voting records. In recent years we have seen a number of studies using Council voting records to make arguments about decision making in the Council. It is a fact observed in many studies that the Council of the EU is remarkably consistent in adopting legislation unanimously, even when the voting rule allows to use a qualified majority (QMV). In a series of papers Heisenberg, Hayes-Renshaw et al., Mattila and Mattila & Lane show that in any given year the Council adopts between 78 and 90% percent of legal acts unanimously (Mattila and Lane, 2001; Mattila, 2004, 2009; Heisenberg, 2005; **?**). This is an effect which has been remarkably consistent over several

enlargements. Backed by a series of case studies that all consistently show that there is a large willingness to compromise in the Council, this has lead some authors to argue that a norm of consensus is at work in the Council (Heisenberg, 2005; Warntjen, 2008). This reading seem to be confirmed by the fact that many researchers only find a very weak dimensionality in the Council. Mattila and Lane (2001); Mattila (2004); Zimmer, Schneider and Dobbins (2005); **?** all find that there are traces of left-right positioning and redistributive politics in the Council. But none of the findings are particularly strong. Thus it appears that in the absence of strong ideological or re-distributional conflicts in the Council a norm of consensus appear to dominate everyday decision making. However a recent critique has resurfaced with regards to what can be learned from voting behavior. Konig and Junge (2009) argues that from the inspection of voting records alone it is difficult to make any inferences about a norm of consensus. The voting records might reflect that the Commission only introduces dossiers that it know will find a majority among the member states, thus relieving the member states of the necessity to use their no vote. Another explanation for the high degree of unanimity could also be log-rolling. Given the sectoral organization of the Council there are many possibilities for log-rolling within the different policy areas, and in COREPER and Council sessions there is room for log-rolling across policy areas. Thus voting records do not seem to a useful dependent variable to analyze when explaining the causal effect of the norm of consensus.

One aspect of Council voting which escapes the critique raised by Konig and Junge (2009) is the time dimension. In normative voting behavior time plays a crucial role. As described above sequencing and diffuse reciprocity are key mechanisms for the functioning of a consensus norm. Logrolling is a very persuasive mechanism for reaching agreement across different issues and dossiers within the same time frame, however logrolling is less convincing as a mechanism for reaching agreement in different time periods. Simply put: if a logrolling agreement is reached across different time periods, there is a high incentive for defection for one or more of the parties. Furthermore logrolling must be specific, i.e. parties must know the exact positions and salience attached to the positions in order to make a trade. Thus under logrolling it is impossible for parties to make agreements about future events in which the content is not known. This implies that voting behavior under a logrolling mechanism is a short-memory process in which previous voting behavior should not substantially impact present voting behavior. As detailed above the consensus norm implies the opposite. Here diffuse reciprocity allows for a long time period to pass before a "debt" or "credit" is called. This allows for a sequencing of exchanges over long periods of time involving dossiers which at one point might be unknown to the member states. If this view of negotiations in the Council is correct voting behavior should

be long-memory process where voting behavior in the beginning of the process has effects throughout the whole series. This is a crucial distinction between the two mechanisms, and one that allows us to employ recently developed methods within the analysis of time series data to directly test for this. In section 4.2 this will be dealt with in more detail.

Abstentions and No-votes

In the literature on the Council of ministers it is clear that the consensus norm exerts restraints on how much overt conflict is tolerated (Lewis, 1998, 2000, 2003, 2005; Heisenberg, 2005), thus an appropriate indicator of how a consensus norm works in the Council is the amount of conflict present. There are two basic forms that overt conflict in the Council can take, namely abstentions and no-votes. If a member state disagrees to a great extent with final version of a dossier it can vote no. The reasons for a no vote can be diverse and represent a host of different motivations. First, it is possible that important constituencies in a member state are adamantly opposed to the measures proposed in a dossier, and thus a no vote is motivated by signaling a governments commitment to represent their interests. Second, a no vote can represent an ideological motivated opposition by a member state government. Third, a no vote can be a part of a larger coalitional exercise in logrolling, where a no vote is provided in exchange for a no/yes vote on another dossier which is of more importance to a member state. Even though there are different motivations for voting no they all represent a breakdown of a norm of consensus. Abstentions are a different matter. They represent a milder form of conflict under some circumstances, while under other circumstances they are equivalent to no votes. Under a voting rule of unanimity, an abstention represents a mild form of dissent which allows a majority to proceed with a dossier. However, under QMV an abstention is formally equivalent to a no vote, as it is necessary to have at least 71% percent yes votes, and an abstention makes it more difficult to reach this percentage (**?**). This raises a puzzle. If an abstention is equivalent to a no vote under QMV why do we see member states engaging in both types of behavior when voting on QMV dossiers? One explanation is that even though the two types of voting behavior are formally equivalent, they represent different signals in Council negotiations. It is not controversial to claim that a no vote carries more weight when signaling to national constituencies. Therefore whenever signaling to national constituencies are the motivation for engaging on conflictual behavior, we should expect to see a member state voting no. Thus abstentions are difficult to reconcile with a signaling to home constituencies. However abstentions are a possible signal to other member states of the Council that a given country have

issues with a dossier but it does not want to obstruct the negations. This is plausible in the light that often in the Council only one or two member states vote no or abstains from voting, thus almost never a blocking minority is reached. Under these circumstances the signaling value of an abstention can be directed at other member states in the Council, without jeopardizing the negotiations of a dossier. Thus an abstention in the council can represent minor ideological differences, disagreements over details in the dossier and so forth. From this we can conclude that abstentions do represent a type of conflict in Council, however whereas no votes can be directed either at the other member states in the Council or key constituencies in the member state, abstentions can be seen as almost exclusively directed at other member states. In essence an abstention signals a small disagreement which is not larger enough to jeopardize the negotiations. However the disagreement is large enough for the member state to signal that the disagreement is not trivial. In sum both no votes and abstentions represent modes of conflict in the Council, it is, though, still an open question whether the occurrence of abstentions and/or no votes is the result of similar forces or constitute evidence of a behavioral norm.

4.2 The Norm of Consensus and Cointegrating Relationships

In this paper the consensus norm which has often been claimed to play a large role in decision making in the Council, is examined by treating abstentions and no votes as time series data on conflictual behavior in the Council. Basically there are two types of time series of interest to scholars, namely short- and long-memory series. A short-memory series is characterized the present value being virtually unaffected by a shock that occurred in the past. On the other hand a long-memory series is characterized by past chocks affecting the current value until the end of the series. Time series which are long-memory but which can be converted to short-term series by differencing once are integrated of order 1, and are referred to as having a unit root (**?**).

In the Council there are several aspects which suggest that a possible consensus norm should be a long-memory process. The Council can be seen as a dense social environment where the history of interaction between actors plays a large role for how future negotiations are played out. As has been noted above the shadow of the future is a key mechanism for the development of a consensus norm, which in turn is made possible by a dense social environment where actors continually interact with each other. This combined with a slow change in membership of the EU should lead

the transfer of norms with regards to conflict to be stable across time. This is a point of view which is reflected in the common understanding that the norm of consensus developed as a solution to the empty chair crisis in the 1960s (Heisenberg, 2005). Therefore if we have a consensus norm present in the Council, this norm should structure to a high degree the amount of conflict tolerated. Thus a consensus norm is also manifested in both abstentions and no-votes, and the degree to which they are accepted as appropriate behavior. If this is the case then we can follow Calderia and Zorn (1998) and decompose the series for absentions and no-votes into two parts:

$$N_t = C_t + n_t$$
$$A_t = NC_t + a_t$$

where A_t and N_t are the number of no-votes and abstentions observed at time t, C_t is the unobserved effect of the consensus norm at time t. N is a multiplier for the effect of norms on abstentions such that the effect of norms on no-votes is normalized to 1. The terms n_t and a_t are stationary stochastic terms, with a zero mean, which represents other influences than the consensus norm on no-votes and abstentions. If this representation of how the consensus norm effects the level of conflict in the Council is accurate, and as suggested above that the two time series should have a long memory, then we can characterize the two series as cointegrated if we can find a linear combination of the two series which is stationary (**?**Calderia and Zorn, 1998; **?**). This allows us to determine whether the two series share a common component, in our case with regards to voting behavior in the Council this is a direct test of whether a norm of consensus is present or not. If we do not find a cointegration relationship between the two series then we must conclude that they are driven by different logics and there is not one underlying process which determine the levels of conflict in the Council. Thus if we find a cointegration relationship between abstentions and no-votes it is not a conclusive proof of the presence of a consensus norm, but it is very strong circumstantial evidence; and if we do not find a relationship it is strong proof against the presence of a consensus norm (Calderia and Zorn, 1998, p. 881).

4.3 Data, Methods and Results

The data used in this paper comes from **?** and Mattila (2009). Combining these two data sets provides us with data on voting behavior in the Council from 1998 to 2006. The data has been divided into quarterly counts of no votes and abstentions in order to capture whether a period of a high or low degree of no votes/abstentions has an

effect on the rest of the series. Figure 4.1 show the two time series plotted form 1998 to 2006.

Figure 4.1: The Two Time Series: The plot show the series for abstentions and no votes plotted from 1998 to 2006.

From a visual inspection it seems that the time series for abstentions exhibit a clear increase in mean and variance around 2004. The series for no votes could arguable seem to follow a slightly similar pattern with a sharp decrease after 2004, but then an increase in the mean after this drop. This provides preliminary evidence for the presence of non-stationary time series. Non-stationarity being a precondition for a long-memory series, this is cursory evidence for the presence of a consensus norm. To test for whether the two series are cointegrated we must first establish that each series is itself being integrated, if no integration can be formally established for both time series there is no possibility for the series to be cointegrated. Thus a test for cointegration must begin testing both series for whether a unit root is present or not. If both series exhibit a unit root we estimate a cointegration regression for both series and test whether the residuals from the cointegration regressions are stationary. If the residuals are stationary it is strong evidence of a cointegration relationship between the two series. In order to determine the exogeneity of the series it is recommended to estimate an unrestricted vector auto-regression to determine which variable is dependent and which is independent. Finally we can estimate an error correction model to find the effects of exogenous variable(s) on the endogenous variable (**?**).

Testing for Unit Roots and Conintegration in No Votes and Abstentions

Table 4.1 reports the results from various tests of unit roots for no votes and abstentions. As the simple Dickey-Fuller test have low power in the presence of an autoregressive process the results for the augmented Dickey-Fuller test (ADF) is reported. The lags has been selected according to Schwartzńs information criterion. The null hypothesis in the ADF tests is the presence of a unit root, and the alternative hypothesis is the absence of a unit root. Thus failure to reject the null hypothesis is here evidence for a unit root in the series. The **?** test is for whether the series is stationary or not. The null hypothesis is that the series is stationary, while the alternative is

that the series could have a unit root. Hence in this case we want to reject the null hypothesis.

Tests	Abstentions	No Votes	Critical Values ($p < .05$)
Augmented Dickey-Fuller Tests			
No Trend	0.7041	-0.9029	-1.95
With Trend	-2.6681	-3.7089	-3.50
(lags)	(4)	(1)	-
Kwiatkowski et al Tests			
Lags = 0	1.3022	0.459	0.463
Lags = 2	0.8409	0.3783	0.463
Lags = 4	0.6072	0.3493	0.463
Lags = 8	0.4108	0.279	0.463

Table 4.1: Tests for Unit Roots: The table show the tests for unit roots and stationarity of the series for abstentions and no votes.

Inspecting the table we find strong evidence that the series for abstentions has a unit root. We can reject the null hypothesis of stationarity for up to 8 lags, and we cannot reject the null hypothesis of a unit root in the ADF test. The picture is more murky when we look at the series for no votes. We cannot reject the null hypothesis of a unit root for a series with no trend, however when we include a trend in the test we can reject the null hypothesis. With regards to stationarity we can reject the null hypothesis at .1 level, and we are very close to rejecting it at the .05 level for zero lags, however as soon as we include a lag structure in the test we cannot reject the null hypothesis. This provides us with weak evidence for a unit root in the series, however we cannot reject the presence of a unit root with great confidence. If we give the series for no votes the benefit of the doubt we can conclude that both series exhibit the presence of a unit root. This implies that both series exhibit a long memory and thus they behave in accordance with the prediction of the consensus norm hypothesis.

Once we have established that the series are integrated by order of 1, the next step is to test for cointegration. **???** recommends a two-step procedure of first regressing each series on the other, and then as a second step test the residuals from each regression for stationarity. If the residuals are stationary we have evidence of a cointegration relationship between abstentions and no votes. Table 4.2 presents the results of the regressions. Two types of regression are estimated for each time series. In the first model we include no exogenous variables. In the second model a dummy variable for eastern enlargement has been included in order to examine whether the process is influenced by eastern enlargement. This allows us to judge whether the

two series are cointegrated beyond the effect of Eastern enlargement. It also provides us with an initial look at how Eastern enlargement might have impacted voting behavior in the Council.

	Without Enlargement		With Enlargement	
	Abstentions	No Votes	Abstentions	No Votes
(Intercept)	2.95	12.56	0.73	14.92
	(1.74)	(3.22)	(1.94)	(3.12)
No Votes	0.24	–	0.28	–
	(0.07)		(0.07)	
Abstention	–	1.10	–	1.22
		(0.31)		(0.30)
Eastern Enlargement	–	–	4.17	−10.00
			(1.91)	(3.89)
N	36	36	36	36
R^2	0.26	0.26	0.36	0.39
Durbin-Watson	1.51	1.28	1.78	1.60

Standard errors in parentheses

Table 4.2: Cointegration Regressions: The models regress the two time series on each other and includes a dummy variable for Eastern enlargement.

Because of autoregression the significance values of the models cannot be trusted, however the point estimates are valid and since we have the entire population of votes in the period from 1998 to 2006 it is possible to make meaningful statements about this period based on the models. The effect of enlargement on voting behavior has been quite profound. The number of abstentions has gone up as a function of enlargement, while the number of no votes has decreased quite a bit. This indicates that the immediate effect of enlargement has been to reduce the overt levels of conflict but the small scale conflicts has increased. This indicates that member states wanted the Eastern enlargement to be a success and thus modified their behavior accordingly, however the levels of conflict within the Council did not decrease therefor we see an increase in the number of abstentions.

To test for whether the two series are cointegrated we use the residuals from the cointegration regressions and test whether they do not have a unit root and are stationary. Table 4.3 presents the results of ADF and KPSS tests for unit roots in the residuals from the cointegration regressions.

From inspecting table 4.3 it is clear that we can reject the null hypothesis of a unit root and we cannot reject the null hypothesis of stationarity. Thus we can conclude that the residuals from the cointegration regressions are stationary with no

Tests	Residuals With Abstentions Dependent	Residuals With No Votes Dependent	Critical Values ($p < .05$)
Augmented Dickey-Fuller Test			
Without Trend	-4.4865	-3.5789	-1.95
With Trend	-4.3475	-3.5039	-3.50
Kwiatkowski et al Tests			
Lags = 0	0.1024	0.2067	0.463
Lags = 2	0.1	0.1645	0.463
Lags = 4	0.1072	0.15	0.463
Lags = 8	0.1687	0.1566	0.463

Table 4.3: Tests for Unit Roots: The table show the tests for unit roots in the residuals from the cointegration regressions.

unit roots. This is strong evidence of a cointegration relationship between abstentions and no votes, and it confirms the theoretical assumption that these two series are driven by the same underlying logic. This is a result that is further strengthened by the fact that we have taken Eastern enlargement into account in cointegration regressions. Controlling for this factor still lets us explain the cointegration of the two series through a common underlying factor. This is evidence of the presence of a consensus norm (assuming that the no vote series really does have a unit root).

An Error-Correction Model of the Consensus Norm

Error correction models (ECMs) are a relatively new addition to the arsenal of methods available to the political scientist. In general ECMs are applicable when we have theory that dictates changes in a dependent variable which should be a function of both long and short term changes in the independent variables. The ECM modelling approach assumes that there exists an equilibrium state in which the levels of the two series are located vis-a-vis each other. This equilibrium can be disturbed by shocks, forcing the series wider apart (or closer together) than normal for the equilibrium state. This "error" in the equilibrium is corrected over time as the process finds a new level consistent with the equilibrium state (**?**, p. 186). If the theory is correct we would expect to find an equilibrium in which the consensus norm induces an equilibrium and thus locks the levels of abstentions and no votes into a low level which is stable and robust to exogenous shocks. In their seminal paper **?** introduce a two step process through which we can estimate an ECM. The first step is to estimate the cointegrating vector. This can be done by regressing the series on each other and

examining the residuals for unit roots. If the residuals are stationary then we have the cointegrating vector. This is what we did above to establish whether two series are cointergrated. The second step in the procedure is to formulate an ECM model. The general specification of an ECM model follows the Engle-Granger representation theorem and has the following general form:

$$\Delta y = \beta_0 + \gamma_1 \hat{z}_{t-1} + \sum_{i=1}^{K} \beta_{1,i} \Delta x_{t-i} + \sum_{i=1}^{L} \beta_{2,i} \Delta y_{t-i} + \epsilon_{1,t} \tag{4.1}$$

$$\Delta x = \beta_0 + \gamma_1 \hat{z}_{t-1} + \sum_{i=1}^{K} \beta_{1,i} \Delta y_{t-i} + \sum_{i=1}^{L} \beta_{2,i} \Delta x_{t-i} + \epsilon_{2,t} \tag{4.2}$$

In the above equations $\hat{z}_t$ is the error from the cointegration regressions and $\epsilon_{1,t}$ and $\epsilon_{2,t}$ represent white noise processes. The equations basically state that changes in the dependent variable are explained by their own history lagged changes of the independent variables, and the error from the cointegration regressions. The estimated cointegrating vector from the first step represents the amount of error in the long-memory equilibrium in the previous time period. The value of the coefficient represents the speed of reequilibration when the system has been victim to a shock, and should always be negative. If the sign of the coefficient estimated from the residuals of the cointegration regressions is positive it means that there is no equilibrium in the system, which implies that shocks to the system are never adjusted to a new equilibrium. For these reasons the residuals from the cointegration regressions are also referred to as the error correction term. The advantage of the ECM models is that independent variables incorporated into the cointegration regressions have their effects felt over a longer period of time. Thus we can estimate the long-run impact of a change in the consensus norm, in our case what would happen when a series of new member states are introduced, by examining the γ coefficient. We can write our ECM model as follows:

$$\Delta Abstentions = \beta_0 + \gamma \hat{z}_{t-1} + \ lags\ of\ \Delta NoVotes, \Delta Abstentions \tag{4.3}$$

and

$$\Delta NoVotes = \beta_0 + \gamma \hat{z}_{t-1} + \ lags\ of\ \Delta NoVotes, \Delta Abstentions \tag{4.4}$$

Furthermore we can unpack the error correction term by using the results from table 4.2 and rewrite it as a function of no votes, abstentions and Eastern enlargement. With abstentions as the dependent variable we can rewrite the error correction term as:

$$\gamma\hat{z}_{t-1} = Abstentions_{t-1} - 0.28 * NoVotes_{t-1} - 4.17 * Enlargement_{t-1} \quad (4.5)$$

With no votes as the dependent variable we can rewrite the error correction term as:

$$\gamma\hat{z}_{t-1} = NoVotes_{t-1} - 1.22 * Abstentions_{t-1} + 10.00 * Enlargement_{t-1} \quad (4.6)$$

Thus it is possible to express the effect of the error correction term as a function of enlargement, holding the level of no votes and abstentions constant. The first step of testing for whether we have an underlying normative equilibrium that determines the levels of abstentions and no votes is to estimate an ECM for the two series. If the series are cointegrated at least one of the ECMs should have a significant and negative coefficient. This is indicative of granger causation (**?**). Hence even if there is no short term effect of enlargement, there might still be a long term effect of enlargement that works through the error correction term. Table 4.4 show the results from the ECMs

	ΔNoVotes	ΔAbstentions	ΔNoVotes	ΔAbstentions
(Intercept)	−0.76	−0.22	−0.30	−0.43
	(1.81)	(1.06)	(2.23)	(1.31)
$\Delta\text{Abstentions}_{t-1}$	−0.28	−0.65*	−0.28	−0.65*
	(0.28)	(0.16)	(0.28)	(0.17)
$\Delta\text{NoVotes}_{t-1}$	−0.46*	0.06	−0.47*	0.06
	(0.14)	(0.08)	(0.14)	(0.08)
$\gamma\hat{z}_{t-1}$	0.84*		0.84*	
	(0.19)		(0.19)	
$\gamma\hat{z}_{t-1}$		0.91*		0.91*
		(0.23)		(0.23)
$\text{Eastern Enlargement}_{t-1}$			−1.45	0.66
			(3.93)	(2.31)
N	34	34	34	34
R^2	0.62	0.51	0.62	0.52
adj. R^2	0.58	0.47	0.57	0.45
Resid. sd	10.53	6.18	10.69	6.28

Standard errors in parentheses

* indicates significance at $p < 0.05$

Table 4.4: ECM: The table show the results from the four ECMs.

As the results from table 4.4 clearly show the error correction terms does enter significantly, however they are positive. Thus there is no underlying equilibrium that

dictates how conflictual behavior in the Council. In stead the results indicate that conflictual behavior fluctuates according to shocks in the level of abstentions and no votes. These shocks are amplified until a new shock is felt, which might go in the opposite direction. The key result here is that conflictual behavior in the Council does not tend towards an equilibrium. This confirms that the series of no votes do not have a unit root, and thus cannot be seen a long-memory series.

4.4 Discussion and Conclusion

The paper started by theorizing the consensus norm as an equilibrium induced by the dense social environment surrounding negotiations in the Council. The large shadow of the future in such a setting makes it possible to engage in diffuse reciprocity, which is a key mechanism for the consensus norm to function. One direct implication of this is that voting behavior in the Council should be seen as long-memory processes. As member states engage in negotiations they build up debts and credits and we should expect conflictual behavior to stabilize at a low level. This is a very attractive hypothesis. In order to test this hypothesis this paper collected data on voting behavior in the Council from 1998 to 2006, divided the data into quarters and counted the number of abstentions and no votes in each quarter. The two time series was then tested for unit roots and used to estimate four ECMs to test for whether there was a normative equilibrium that governed the level of conflict in the Council. The results are not favorable to the hypothesis. The abstention time series has a unit root, and can be characterized as a long-memory series, however the series for no votes do not behave the same way. Using standard tests for unit root it was not possible to either confirm or reject the presence of a unit root for the no vote series. However the results from the ECMs established that there is no underlying equilibrium that governs the levels of no votes and abstentions, thus confirming the suspicion that the no votes series is not a long-memory process. This has several implications for the literature on the consensus norm. What the results indicates is that there is no norm that governs how the level of conflict fluctuates in the Council. These pieces of evidence corroborates the logrolling argument where the voting behavior is determined by whatever deal a member state is engaged in at the moment. This does not prove that no consensus norm exists, however if it exists it does not structure the level of conflict in the Council. Lewis has claimed that the consensus norm will break down whenever a member states key interests is at stake (Lewis, 2000). However if this is the case then it is very difficult to separate normative voting behavior from overlap of preferences and low saliences. From a normative point of view this is not an attractive explanation of why we see the conflict patterns that

we do. From a rational point of view there are two explanations which are consistent with the analysis presented here. First, It is a fact that we have a high degree of unanimous voting in the Council. Hence it is likely that the seemingly random pattern of conflict which we observe is due to breakdowns in logrolling negotiations. This would happen whenever member states would misjudge the position and/or level of salience that their partners attach to issues. In a highly socialized environment like the Council we would not expect this to happen systematically, and thus the breakdowns we do observe are random occurrences that represent a momentary lapse in member states bargaining behavior. Second, it is possible that the pattern we observe is due to the type of dossiers submitted by the Commission. It has often been argued that the Commission submits dossiers in a strategic manner in order to optimize the adoption rate (**?**Hix, 1999; **?**). If this is the case then the pattern could also be explained by small unsystematic errors of judgement by the Commission. On average the Commission could be very successful in submitting dossiers which are not controversial for most member states. However once in a while a random error might be made from the Commissions side which leads it to submit a dossier which is problematic for some member states.

In sum, the analysis presented here does pose some hard questions for the claims that negotiations in the Council is guided by normative actors. No definitive proof against the consensus norm has been presented, but there is strong circumstantial evidence that no norm guides the level of conflict in the Council. If a norm of consensus only guides the affirmative votes then it must be established that at least in some cases the unanimity does not reflect logrolling, an overlap of preferences, or low saliences. This is a very difficult task, but it is necessary if the consensus norm hypothesis is to continue to be relevant for studies of the Council.

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