Bargaining power in informal decision-making in the Council of the European Union

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Abstract

Negotiations in the Council of the European Union take place in an environment that is relatively unstructured by formal rules and procedures. Indeed, most of the negotiations take place in working parties and committees composed of national officials and diplomats that 'prepare' the Council's work. In other words, decisions are being made in fora that are not recognized by the European Treaties, by government representatives that possess no formal powers to do so, and according to unwritten rules and procedures that have largely developed through practice over time rather than intentional design. Even though formal provisions, such as the voting rule, may have indirect effects on negotiators' behaviour, they often do not reflect decision-making in practice. To shed more light on the negotiation process in the Council, this paper presents a quantitative case study of negotiations on the Air Quality Directive. To capture the complexity of multi-issue, multi-actor negotiations over time, the study describes the negotiation process as a series of two-mode networks consisting of member states and their negotiation positions. The statistical analysis focuses on two aspects of this process, the number of negotiation positions stated by member states and the propensity of those positions being incorporated into the legal text. The results suggest that larger countries state more negotiation positions than smaller ones, and that the size of the group supporting a negotiation position is an important determinant in explaining its incorporation into the final agreement. Furthermore, these relationships are stable across stages of the negotiation process and different decision-making fora of the Council, suggesting that negotiation behaviour in informal settings is not qualitatively distinct from negotiation behaviour in more formal arenas.

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Council decision-making: legal fiction vs. reality

According to the Treaty on European Union, the Council, together with the European Parliament, is in charge of adopting legislation as well as the Union's budget.[2] The Treaty specifies that the Council is comprised of a "representative of each Member State at ministerial level, who may commit the government of the Member State in question and cast its vote". As default decision-making rule, it stipulates a qualified majority threshold. It also acknowledges that the Council meets in different sectoral configurations, that meetings are generally chaired by the rotating Presidency, and that a Committee of Permanent Representatives (Coreper) is responsible for "preparing the work of the Council". It also stipulates that the Council meets in public when discussing legislative acts. Thus, to a naïve observer, the provisions in the Treaty would suggest that the Council's legislative work is mainly conducted by ministers who deliberate in public and reach collective decisions through a vote, just as law-makers in most other legislative assemblies.

The additional provisions in the Treaty on the Functioning of the European Union elaborate on some of the points in the Treaty on the European Union, especially the voting weights under the qualified majority voting rule as well as the exceptions to that rule, but do not fundamentally alter this picture.[3] Compared to the process suggested by formal rules, the Council's actual decision-making process looks quite differently. De facto, many if not most legislative decisions are not made by ministers in public fora, but by diplomats and national officials behind closed doors of committee or working party meetings (Häge 2008, 2011). The organisational structure of the Council consists of a hierarchy of decision-making bodies, with working parties of experts from national administrations at the bottom, Coreper as conduit in the middle, and the different formations of ministerial meetings at the top. This structure acts like a filtering system; only issues for which no agreement could be reached at a lower level are discussed and potentially decided on at a higher level. Of course, agreements reached at lower levels still have to be endorsed by ministers, but usually this endorsement is a mere formality.

On the one hand, the Council's rules of procedure acknowledge this established practice by suggesting that Coreper "shall endeavour to reach agreement at its level to be submitted to the Council for adoption".[4] On the other hand, the provision that "committees or

[2] Official Journal (2012) Consolidated Version of the Treaty on European Union. 26/10/2012, C326, p. 13.
[3] Official Journal (2012) Consolidated Version of the Treaty on the Functioning of the European Union. 26/10/2012, C326, p. 47.
[4] Official Journal (2009) Council Decision of 1 December 2009 adopting the Council's Rules of Procedure. 11/12/2009, L325, p. 35.

working parties *may be* set up by, or with the approval of, Coreper with a view to carrying out *certain* preparatory work or studies defined in advance" [emphasis added] downplays the role played by working parties in the Council's decision-making progress. In contrast to what the phrasing of this provision suggests, those bodies are not set up temporarily or for very specific purposes, but permanent structures with general mandates to scrutinize and amend legislative proposals in particular policy areas. Even if their decisions are not always the most politically controversial ones, the 'preparatory work' of working parties involves making a large number of legislative choices that are only rubberstamped by ministers (Häge 2013a).

Thus, large parts of the Council's decision-making process are not directly regulated by formal rules or procedures at all. Even where they are, the formal rules are often not reflected in actual behaviour and decision-making outcomes. The prime example of such a situation is the voting rule. Despite intense intergovernmental conflict over the Council's decision-making rule during negotiations on Treaty revisions, explicit voting is generally rare in day-to-day legislative decision-making. Even in cases where voting occurs, majority coalitions are usually oversized (e.g. Mattila and Lane 2001; Mattila 2009). Of course, the absence of explicit voting does not necessarily mean that the formal voting rule does not affect negotiators' behaviour and negotiation outcomes. Negotiating in the 'shadow of the vote' is most certainly different from negotiating under unanimity rule (Häge 2013b; Novak 2010). Still, recent empirical research suggests that decision-making outcomes are quite equitable and inclusive, even when qualified majority voting is a possibility (Thomson 2011:185–187).

In summary, most of the Council's decision-making process takes place in the informal fora of its preparatory bodies. These bodies lack a clear specification of their composition, have ill-defined roles and prerogatives, and often follow unwritten decision-making rules. And in fora where decision-making is more structured by formal rules, as in the case of Coreper and ministerial meetings, these formal rules are often complemented or even supplanted by informal ones. Despite a growing body of literature on Council decision-making, we have very little systematic and detailed knowledge about the process through which the Council reaches its decisions. Most quantitative studies take a black-box approach. They aim at explaining some output characteristic of decision-making, like the share of budget funds (Aksoy 2010) or the influence on policy (Thomson 2011; e.g. Thomson et al. 2006), based on input characteristics. Other studies focus on explaining voting behaviour (e.g. Arregui and Thomson 2014; Høyland and Hansen 2014), which is a process characteristic worthy of investigation in its own right. However, given that voting just ratifies an agreement at the end of the process that has been reached through other means, these

studies also do not shed much light on how decision-making outcomes are arrived at. In these approaches, the process linking inputs to outputs remains unspecified.

However, investigating the process of decision-making is valuable in itself. From a social scientific point of view, the process of decision-making provides evidence for the causal mechanism or mechanisms at play in generating a particular decision-making outcome. Such evidence provides support for or against particular theories and allows us to distinguish between alternative explanations for the same correlational result. From a normative point of view, questions about how legislative decisions are being made, by whom, when, and to what effect are also of considerable importance for evaluating the democratic legitimacy of Council decision-making in terms of efficiency, transparency, accountability, and representation.

In general, qualitative studies of Council decision-making devote more attention to the process through which a decision is being reached. Some studies do not describe and analyse decision-making as it actually occurred in any particular case, but make generalisations on the basis of interviews with practitioners about their typical experiences in Council decision-making processes (e.g. Novak 2010, 2013). Others examine specific cases (e.g. Smeets 2015a, 2015b) or combine both approaches (e.g. Lewis 2005). While qualitative studies provide valuable evidence and insights, a natural limit exists in the extent to which they allow for a systematic and comprehensive description and analysis of a decision-making case. The human mind can only keep taps of a limited number of issues, actors and policy positions at a time. To overcome these cognitive limitations, this study employs a quantitative methodology to map and analyse the process of decision-making in a particular case.

In particular, the study pursues two objectives. First, it employs quantitative measurements and concepts from network analysis to represent both the complexity of multilateral negotiations at a particular stage in the decision-making process and its dynamics over time. The Council's internal records provide a reliable and contemporary source about the negotiation positions of member states. The information in those documents is used to construct two-mode networks of negotiation positions linked to member states supporting those positions at different stages in the negotiation process. Changes in position support relationships over time can then be described both in terms of the immediate network environment of particular member states or positions and the network structure as a whole.

Second, based on this quantitative representation of the decision-making situation, statistical methods are used to examine hypotheses about the negotiation behaviour of individual member states and the outcome of decision-making. In particular, the study

investigates the factors accounting for differences amongst member states in the number of stated positions and for factors accounting for differences in the probabilities of those positions being adopted.

Existing research suggests that Council decision-making outcomes are quite equitable, with all member states providing a similar degree of input, regardless of their size or voting weight. Most bargaining theories of international cooperation suggest that the power of states determine their influence in intergovernmental negotiations, and this idea does not seem very controversial as an explanation for decision-making in other international organisations. Thus, if the finding of equitable and inclusive decision-making holds, the Council constitutes quite a remarkable exception. However, a number of reasons exist why Council decision-making might superficially look like a consensual and equitable process, yet 'under the hood' operate like negotiations in any other intergovernmental setting. With respect to consensus, negative votes might be avoided not because everybody supported the compromise, but because nobody wants to be seen as having lost out in negotiations (Novak 2013). Similarly, negotiation outcomes might look more equitable than they are because smaller member states, being conscious of their limited bargaining power, start negotiations already with a smaller number of demands than larger member states. In a process were the formation of blocking coalitions is key for avoiding being side-lined in negotiations (Häge 2013b), smaller member states might also find it harder to muster support for their positions from other states, which in turn makes it more likely that those demands are dropped over time. If the positions of larger states act as attractors in the coalition-building process and compromises are reached between the different coalitions that form through this process, smaller states might look like they were equally influential when comparing initial positions to outcomes, yet their policy position just happened to be close to the position of a larger member state whose position acted as a focal point for coalition form. In this scenario, the policy positions of smaller states are close to the decision-making outcome because of luck rather than power. In order to adjudicate between these alternative explanations of the same outcome, a closer look at the process of decision-making is required.

Thus, bargaining power, measured in a number of ways, is one major dimension along which this study compares the negotiation behaviour of states and the fate of policy positions. The other dimension of comparison is the stage of the negotiation process. Comparing the negotiation behaviour of states over time allows us to see whether different negotiation stages, which are usually associated with fora of different degrees of informality, involve different negotiation practices. Substantively, the analysis focuses on the negotiation process

surrounding the Council's decision on the Air Quality Directive in 2006. In general, claims of representativeness are weak for any case study, but the case is not an obvious outlier in terms of political controversy or salience. In terms of policy content, the case is quite typical of environmental legislation in that it addresses an important EU-level collective action problem that pits environmental protection concerns against economic cost considerations. Still, like any other case study, the findings of the quantitative analysis are in principle confined to this particular case. However, the new insights produced by the case study might promote further, more extensive and comparative research, and the approach presented here might serve as a methodological template for this purpose.

The remainder of this paper is structured as follows: The next section reviews theoretical arguments relating to different sources of bargaining power in multilateral international negotiations. It develops hypotheses about the effect of bargaining power on the number of demands made by a state and the propensity of a negotiation position to be incorporated into the legal text. The third section provides a short qualitative description of the Council's negotiation process surrounding the Ambient Air Directive in 2006. The fourth section justifies the selection of this case, describes the data sources, the data collection procedure, and the measurement of variables. The fifth section presents the negotiator-position support network at various stages in the negotiation process and describes its development over time through a number of network-level summary statistics. The sixth section provides the results of the statistical analysis of the number of bargaining demands made by states and the propensity of negotiation positions to be incorporated into the final agreement. Finally, the concluding section provides a summary of the results and its implications for our understanding of the role of bargaining power in informal Council decision-making.

Sources of bargaining power

As mentioned above, one central dimension of comparison for this study is the relative bargaining power of states and its consequences for their negotiation behaviour. The existing literature on this topic has identified a number of possible sources of bargaining power (e.g. Bailer 2010). A distinction can be made between structural characteristics of the state or government as a whole, and personal characteristics of the negotiator representing that government. The latter include the negotiator's bargaining skill, expertise, seniority, and perceived trustworthiness. Unfortunately, information about these personal characteristics of negotiators is not available for the case considered here. Indeed, these factors are generally

hard if not impossible to measure in a reliable and valid manner. Given that they relate to idiosyncratic characteristics of individual negotiators, they are also of limited relevance for developing general political science explanations. Thus, the study focuses on testing expectations about the effect of state-level characteristics, effectively treating governments as unitary actors. According to this view, the main power resources of governments derive from their country's size, domestic constraints, institutional prerogatives, and the value of their outside option. Each of these sources of bargaining power should have a positive effect on the probability of stating a negotiation position and the probability of the position being incorporated into the legislative text. However, the effect of power on bargaining success works through the actual exercise of power by stronger member states, while the effect on the number of bargaining demands works through the self-restraint of weaker member states anticipating their limited success chances. The structure of hypotheses is the same for all bargaining power variables, regardless of their conceptual definition and corresponding measurement:

H1: The more powerful a state, the more bargaining demands it makes.

H2: The more powerful the group of states supporting a bargaining demand, the more likely that demand will be accepted.

State size

In most international negotiations aimed at tackling a global or regional collective action problem, states' relative military capabilities play hardly a role. Any threat to use force would not be credible, giving the associated costs, and would likely be counterproductive given the goal of establishing mutually beneficial cooperation. However, states' size, especially as measured in economic or population terms, still matters. In some contexts, economic dependencies between states might be utilized by the more powerful party to induce the weaker party to agree to terms that favour the more powerful. This might take the form of explicit threats or promises. In many other contexts, including the EU, size plays out in more subtle ways. As Tallberg (2008:690) notes, a state's size affects "the legitimacy of its claims to influence". In these settings, the greater power of larger member states is based on the implicit understanding of negotiators that those who contribute more to the common endeavour and whose cooperation is essential for a meaningful implementation of the agreement have a greater say in its design. In many circumstances, the good will and active participation of states with larger economies is more essential for maximizing efficiency gains from international cooperation than those of states with smaller economies. Thus,

economic size is expected to be positively related to both the number of positions advocated and the success in getting those positions adopted. State leaders of democratic governments, who value fair representation, might also accept that states with larger electorates should have more influence in shaping the negotiation outcome than governments representing smaller electorates.

Domestic constraints

The literature on two-level games argues that domestic constraints can help negotiators to extract concessions from their counter-parts in international negotiations (Putnam 1988). If the consent of domestic actors is required for a government to sign up to an international agreement, or for ratifying and implementing the agreement once it has been signed, negotiators might be able to move the negotiated agreement closer to their own ideal policy position. However, the formal or de facto requirement for consent is only a necessary condition for domestic actors to constitute a constraint on their government's negotiation behaviour. In addition, the domestic actors must hold a position that is more extreme from the point of view of the international negotiation partners than the position of their government. In such a situation, domestic actors have both the ability and the incentive to block international agreements that would be acceptable to their otherwise unconstrained government. The government in turn can use the prospect of a blockage or rejection of the agreement by domestic actors as a bargaining chip to extract further concessions from its international negotiation partners. In line with this argument, states with strong domestic constraints are expected to make more demands and to be more successful in getting those demands accepted than states with weak domestic constraints.

Institutional prerogatives

Multilateral international negotiations often occur in a relatively unstructured environment with few formal or informal rules prescribing the roles and powers of different types of actors in the negotiation process. However, many negotiations do not occur in a completely institution-less environment either. The role and importance of institutions is likely to depend on the specific negotiation context. Negotiations that take place within established international organizations or conventions often allow for an agreement to be reached by simple or qualified majority vote. Even though such votes are rarely taken in practice and agreements usually reached by consensus (Häge 2013b; Steinberg 2002), these negotiations occur in the 'shadow of the vote' (Golub 1999). Negotiators anticipate the possibility of a vote and its likely outcome and act accordingly. In contexts where states' votes are weighted,

those states with larger voting weights are more likely to be the pivotal actor turning a losing coalition into a winning one (Bailer 2004). Thus, states with larger voting weights are expected to demand more and receive more concessions from other states.

Value of outside options

Another important power resource of a state is the value of its outside option. The outside option is also sometimes called the 'best alternative to the negotiated agreement' (BATNA). Those states that do not lose a lot from failing to reach an international agreement are in a more powerful position than those states that do. The former are relatively happy with the current status quo and have less incentive to sign up to a new agreement at the international level. They are expected to make a larger number of demands and receive more concessions for their consent.

Size of support group

Existing research on bargaining success has extensively studied the role of individual-level characteristics of states. However, the success and failure of a state in international multilateral negotiations does not only or even primarily depend on its own individual behaviour and characteristics, but on the behaviour and characteristics of other states that support or oppose the state's positions. In short, whether a state's demand is being accepted depends not only on its own bargaining power, but also on whether the demand is supported by other states and the cumulative bargaining power of those states.

Coalition-building is an essential aspect of multilateral negotiations. Mustering the support of other member states is particularly important in negotiations where the agreement can be adopted through some form of majority rule. In the Council of the EU, decisions can be adopted by a qualified majority of weighted votes of member states. Although explicit voting does not occur very often, the prospect of being outvoted induces member states to engage in negotiations and to actively seek the support of other states for their positions (Häge 2013b; Novak 2010). While support groups often form as a result of intentional coalition-building efforts, they might also arise spontaneously as a result of a simple coincidence of interests. If the concept of a coalition implies some active coordination amongst its members to achieve a common goal, the concept of a support group is more encompassing. From a conceptual point of view, the size of a support group matters for explaining its bargaining success, not how it came about. Larger groups combine more votes, economic resources, and represent a larger share of the EU's population, and are therefore less easily ignored. In the country-negotiation network, the simplest way to measure the size

of a position support group is to count the number of countries supporting a negotiation position. According to this approach, only the number of states supporting a certain position matters, without regard for their cumulative bargaining power. However, if bargaining power determines who gets what in Council decision-making, the size of support groups are more reasonably measured in terms of the combined bargaining power of its members rather than just their overall number.

Negotiations on the Ambient Air Directive

The empirical analysis focuses on the negotiations on the Air Quality Directive in the Council of the European Union. The proposal for the directive was introduced by the Commission on 21 September 2005, as a specific instrument to implement part of a broader Thematic Strategy on Air Pollution.[5] The proposal had three primary objectives: as part of the EU's drive towards 'better regulation', the first objective was to consolidate five existing pieces of legislation on air pollution in a single text. The merging of existing directives was a purely technical exercise. However, the second and third objectives were of substantive importance. Both related to the restriction of concentrations of particulate matter (PM) in air. Many member states had problems complying with strict limit values for PM_{10} (i.e. particulate matter up to a diameter of 10μm) that had recently been defined by one of the directive to be merged. If member states could not comply even though they had taken 'all reasonable measures', the new proposal would allow for an extension of the attainment date of the limit values. Finally, in light of growing scientific evidence of the particular health risks of fine particulate matters ($PM_{2.5}$), the proposal introduced new provisions focusing especially on their control and reduction. In terms of the number of issues newly regulated, their overall importance, as well as the level of controversy generated, this case is a rather moderate one typical of day-to-day decision-making in the Council. At the same time, the negotiations consider a classic public goods problem similar to other international multilateral negotiations that deal with regional or global environmental issues.

Negotiations in the Council's Working Party on the Environment started at the end of October 2005 under the Presidency of the United Kingdom. The working party consists of officials from national environment ministries, who are usually temporarily 'loaned' to the country's permanent representation in Brussels and supported by experts flown in from

[5] European Commission (2005): Proposal for a Directive of the European Parliament and of the Council on Ambient Air Quality and Cleaner Air for Europe. COM(2005) 447, 21 September. European Commission (2005): Communication from the Commission to the Council and the European Parliament: Thematic Strategy on Air Pollution. COM(2005) 446, 21 September.

national capitals for particular agenda items. The first few meetings of the working party focused on the thematic strategy, the impact assessment on which it was based, the general goals of the Air Quality Directive, and the preparation of a policy debate by ministers on 2 December 2005. The policy debate canvassed ministers' general views on the long term goals set by the thematic strategy and the trade-off made by the proposal between granting member states flexibility in implementing air quality standards and improving public health in a cost-effective manner.[6]

Discussion of the details of the proposal began in January 2006 under the Austrian Presidency, which aimed at a political agreement to be reached by ministers at the Environment Council meeting at the end of June.[7] The working party discussed the proposal at twelve occasions between January and the end of May. To aid the discussions, the Council Secretariat regularly produced updated proposal texts incorporating the agreed amendments and documenting positions of member states on outstanding issues in footnotes. These documents are the primary source of information for the reconstruction of the country-position network at different points in time during the negotiation process. The first document was produced before the fourth meeting of the working party on 27 February, and the second before the fifth meeting on 28 March. The third document produced in preparation for the eighth meeting on 25 April only updated the provisions of the main text, whereas the fourth document produced for the ninth meeting on 4 May focused on the appendices. Because the two meetings examined different parts of the proposal, the information from the two documents is combined and treated as a single negotiation stage in the analysis.

At the tenth meeting on 12 May, the working party discussed a compromise proposal by the Presidency. At the eleventh meeting on 17 May, it examined the draft report of the EP committee. Subsequently, a fifth document was produced by the Council Secretariat as a basis of discussions in the working party's last meeting on 30 May. The sixth document is a progress report from the working party to the Committee of Permanent Representatives (Coreper), which met on 7 June. Environment issues are discussed by Coreper I, which consists of deputy permanent representatives of member states. In the case of the Ambient Air Directive, most issues had been resolved by the working party already, but the deputy permanent representatives were able to reduce the number of outstanding issues even further.

[6] Council (2005): Note from General Secretariat to Coreper/Council: Preparation of the Council (Environment) Meeting on 2 December 2005. 14657/05, 18 November.

[7] Council (2005): Note from Presidency to Delegations: Austrian Presidency - Provisional Agendas for Council Meetings Prepared by Coreper (Part 1). 15950/05, 20 December.

Finally, the seventh document provides the text that formed the basis of negotiation between ministers on 27 June. In that meeting, ministers reached agreement on a 'general approach' regarding the main issues in the proposal, largely following the Presidency's compromise proposal floated earlier in the working party.[8]

Under the Finish Presidency, further meetings of the working party took place in July, September and October to discuss the draft EP amendments and make some minor modifications to the text of the general approach. The Commission also had some remaining concerns mainly related to obligations introduced late in the process by member states. These obligations required the Commission to provide guidelines and examples of best practices for the implementation of the directive within a relatively short period of time after its entry into force. Coreper was able to alleviate those concerns in a meeting on 11 October by extending the deadlines. The only remaining footnote at this point in time was the objection of the Netherlands and Poland to the maintenance of the daily limit value for PM_{10} (not higher than 50μg\m^3 more than 35 days a year), which many states found difficult to implement. In the end, both countries voted against the adoption of the political agreement. The Netherlands justified its negative vote by arguing the directive imposed legal obligations on member states to comply with standards whose achievement were beyond their control. Sweden abstained for the opposite reason. Rather than less it preferred more restrictive air quality standards. Although Sweden could support most parts of the agreement, the regulation of fine particles ($PM_{2.5}$) did not go far enough in its view.[9]

Given that the detailed discussions of the dossier started in January and the agreement on all major points was reached at the ministerial meeting in June, this time period constitutes the 'target time-frame' for the analysis of the negotiations. Obviously, the records documenting the process of negotiations do not provide a continuous time representation of the process, but only snapshots. The timing of those snapshots is itself endogenous to the process. Whenever a dossier is referred to Coreper or ministers, it is accompanied by a progress report. Practices at working party level vary, but reports are usually drawn up at significant points in time during the negotiation process, including the end of the pre-negotiation phase and after important intermittent, partial agreements. In the case studied here, the pre-negotiation phase seems to have ended after the fourth meeting on 27 February,

[8] A 'political agreement' could not be adopted at that point in time as the EP had not delivered its first reading opinion yet and the Council is legally required to take the EP's opinion into account. In such cases, the Council adopts a 'general approach' instead to which the Commission reserves its position.

[9] Council (2006) Draft Minutes: 2757th meeting of the Council of the European Union (Environment), held in Luxembourg on 23 October 2006. 14289/06, 10 November.

when the second document was drawn up. At this point in time, the number of footnotes peaked and the footnotes were distributed throughout the entire proposal, indicating that the working party had examined the whole file and that member states had developed and stated their positions on all issues. Thereafter, the main negotiation phase started with the next five meetings being devoted to clearing the less contentious issues. The results of this stage of the process were summarized again in the second and third document, before the Presidency compromise proposal for the main issues was discussed at the working party meetings on 12 and 30 May. The end-game began with the referral of the file to Coreper at the beginning of June and concluded with the agreement by ministers on 27 June. Whenever the dossier was referred to a higher Council level, it was accompanied by a progress report.

Network construction, variable operationalization, and data sources

As mentioned above, information from internal Council documents was used to construct the country-position network at different points in time. The first five documents indicate positions of member states exclusively in footnotes, so no other information was used in the coding of the country-position network. The progress reports to Coreper and ministers are organized somewhat differently. They also contain some footnotes with 'technical remarks', but the main outstanding issues are summarized separately and not footnoted in the document. In those cases, both the summaries in the introduction and the footnotes to the current proposal text were used to code positions and support relationships. In short, any suggestion for replacing text, omitting existing or adding new text is coded as a separate negotiation position. All member states that are recorded as having voiced that suggestion are coded as supporting the position.[10] Obviously, each position is supported by at least one member state. However, in many cases, positions are supported by two or more member states. Such linkages generate a network of support relationships between negotiation positions and countries. In network analytical terms, this country-position support network is an affiliation or two-mode network. The distinguishing feature of such networks is that they consist of two different types of nodes, and that edges only link nodes of different types. In our case, the two node types are negotiation positions and countries, and the edges indicate support of countries for positions.

Table 1 provides an overview of the operationalization and data sources of the variables used in the analysis. As the theories discussed earlier refer both to properties of countries (i.e.

[10] Figure A1 in the appendix provides an extract from one of the footnoted Council documents. The note to the figure illustrates how negotiation positions and support relationships have been identified from the footnotes.

number of negotiation positions) and properties of positions (i.e. size of support group), the basic unit of analysis is the country-position (i.e. the mixed-node dyad created by a support relationship between a country and a position). Country-positions are then aggregated to either the country or position level. To investigate whether the bargaining power of a country influences the number of bargaining demands it makes, the data are aggregated by country; and to investigate whether bargaining power influences the chances of a position to be adopted, the data are aggregated by position. Each network snapshot provided by information from the different Council documents is treated as a separate time point in the analysis, resulting in a cross-section time-series design with six time points. I refer to these six time points as 'negotiation stages'.

The dependent variable bargaining success is operationally defined as the extent to which a negotiation position is incorporated into the legal text. At each negotiation stage, negotiation positions can experience one of four different outcomes. First, member states are most successful if their demand is fully adopted. In this case, the variable is coded as '4'. Second, member states are somewhat successful if their demand is adopted in parts. The latter often occurs as part of a compromise solution. Third, member states' demand clearly fails if it is withdrawn. Therefore, the bargaining success variable receives a score of '0' in those cases. The fourth possible outcome is somewhat more ambiguous. Before the end of the negotiation process, a position might simply be maintained from one negotiation stage to the other, indicating neither a clear failure nor success. These cases are coded with an intermediate value of '1'. Thus, the dependent variable is originally measured on an ordinal scale ranging from '0' to '4', with higher values indicating more bargaining success. To simplify the analysis, I dichotomise the variable. According to the new coding, a '0' indicates that the negotiation position was not incorporated into the text at all (i.e. the position was withdrawn or maintained) and a '1' indicates that the position was partially or fully incorporated into the legal text.

The independent variables consist of variables measuring bargaining power in the form of a country's population size, its economic size, voting weight, domestic constraints, and the value of its outside option. Population size is measured by the total population of a member state, as determined by the Council in its 2006 update of the population values for determining the population threshold under the Treaty of Nice voting rules. Economic size is measured as Gross Domestic Product of member states. Data is taken from Annual National Accounts statistics collected by Eurostat. Voting weight is simply measured by the number of votes allocated to a member state under the Nice Treaty rules. Domestic constraints are

measured by an index of national parliamentary control of EU affairs developed by Winzen (2012). The index aggregates information about the availability of information, the resources devoted to government scrutiny, and the mandating rights of national parliaments in the year 2010, resulting in a quasi-continuous measure of parliamentary control. Of course, the parliamentary control variable does not capture all possible domestic constraints, but it captures a major constraint that potentially applies to all governments while exhibiting significant variation across countries to allow for a meaningful analysis of its relationship with bargaining success.

Table 1 Variables, operationalization, and data sources

Variable	Operationalization	Source
Dependent variables		
Number of negotiation positions	Number of positions stated by a country	Council documents
Bargaining success	Extent to which a negotiation position is incorporated into the legal text: 0 = position withdrawn or maintained 1 = position partially or fully incorporated	Council documents
Country variables		
Population size	Total population 2006 (natural logarithm)	Official Journal (2006a)
Economic size	Gross Domestic Product 2006 (market prizes in Euro, natural logarithm)	Eurostat (2013)
Voting weight	Number of votes (natural logarithm)	Official Journal (2006b)
Domestic constraints	Index of parliamentary control of EU affairs in 2010	Winzen (2012)
Value of outside option	Noncompliance with existing PM limit values in 2005	European Environment Agency (2013)
Position variables		
Size of support group	Number of countries supporting position	Council documents
Size of support group weighted by bargaining power	Number of countries supporting position weighted by their population size, economic size, voting weight, domestic constraints, and value of outside option, respectively. Population, economic size, and voting weights are aggregated by summation, domestic constraints and outside options by taking the maximum value of those variables amongst the members of the support group	See sources of individual bargaining power variables above.

Sources:

Official Journal (2006a) Council Decision of 23 January 2006 amending the Council's Rules of Procedure (2006/34/EC, Euratom). L 22, 26 January, p. 32.

Official Journal (2006b) Consolidated Versions of the Treaty on European Union and of the Treaty Establishing the European Community. C 321 E, 29 December, p. 1.

Eurostat (2013) Annual National Accounts: GDP and Main Components at Current Prizes (nama_gdp_c). 30 March. http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=nama_gdp_c&lang=en.

Winzen, Thomas (2012): National Parliamentary Control of European Union Affairs: A Cross-national and Longitudinal Comparison, West European Politics, 35:3, 657-672.

European Environment Agency (2013) AirBase: The European Air Quality Database. 28 February. http://www.eea.europa.eu/data-and-maps/data/ds_resolveuid/60f9ec999a7640c68acb972cc6df80f1.

The value of member states' outside option is measured with data on member states' compliance in 2005 with existing limit values for PM_{10}. These data are published by the European Environment Agency. The pre-existing legislation stipulated that the yearly average of PM_{10} concentration should not exceed $40\mu g/m^3$, and that a concentration of $50\mu g/m^3$ should not be exceeded more than 35 days a year. The extent of a country's noncompliance with one of those obligations is indicated by the proportion of the country's measurement stations that violated one of these limits in a certain year. To aggregate the two indicators into a single variable, the Euclidean distance between zero, indicating full compliance, and countries' positions in the two-dimensional compliance space created by combinations of values of the two indicators is calculated. The larger that distance, the more compliance problems a member state had with the pre-existing PM_{10} regulation. For this analysis, compliance problems are not of interest as such, but they are a good proxy for the air pollution situation in member states at the time. Somewhat ironically, those countries that would benefit most from a reduction in pollution find the setting of ambitious international standards less attractive, usually because they think that the required adjustments are too costly or that they do not have the practical means to ensure their implementation. Thus, the extent of compliance problems with existing air pollution regulation serves as a proxy for the value of a country's outside option. The more compliance problems a country has with existing legislation, the less eager it will be to sign up to new agreements establishing further obligations.

All bargaining power variables measure attributes of individual countries. Therefore, these variables simply retain their original values when positions are aggregated by country for the analysis of the number of bargaining demands. However, the analysis of bargaining success is conducted at the level of negotiation positions, which are often supported by several countries. In order to aggregate the country level variables by position, I sum up the values for population size, economic size, and voting weights of the countries supporting a position. Conceptually, it makes less sense to add up the values for domestic constraints and outside options of support group members. Assuming that the domestic constraint of the most constrained government binds the entire group, I take the maximum variable value of support group members. Outside option values are aggregated in the same manner based on the same rationale.

Country-position support network and bargaining success over time

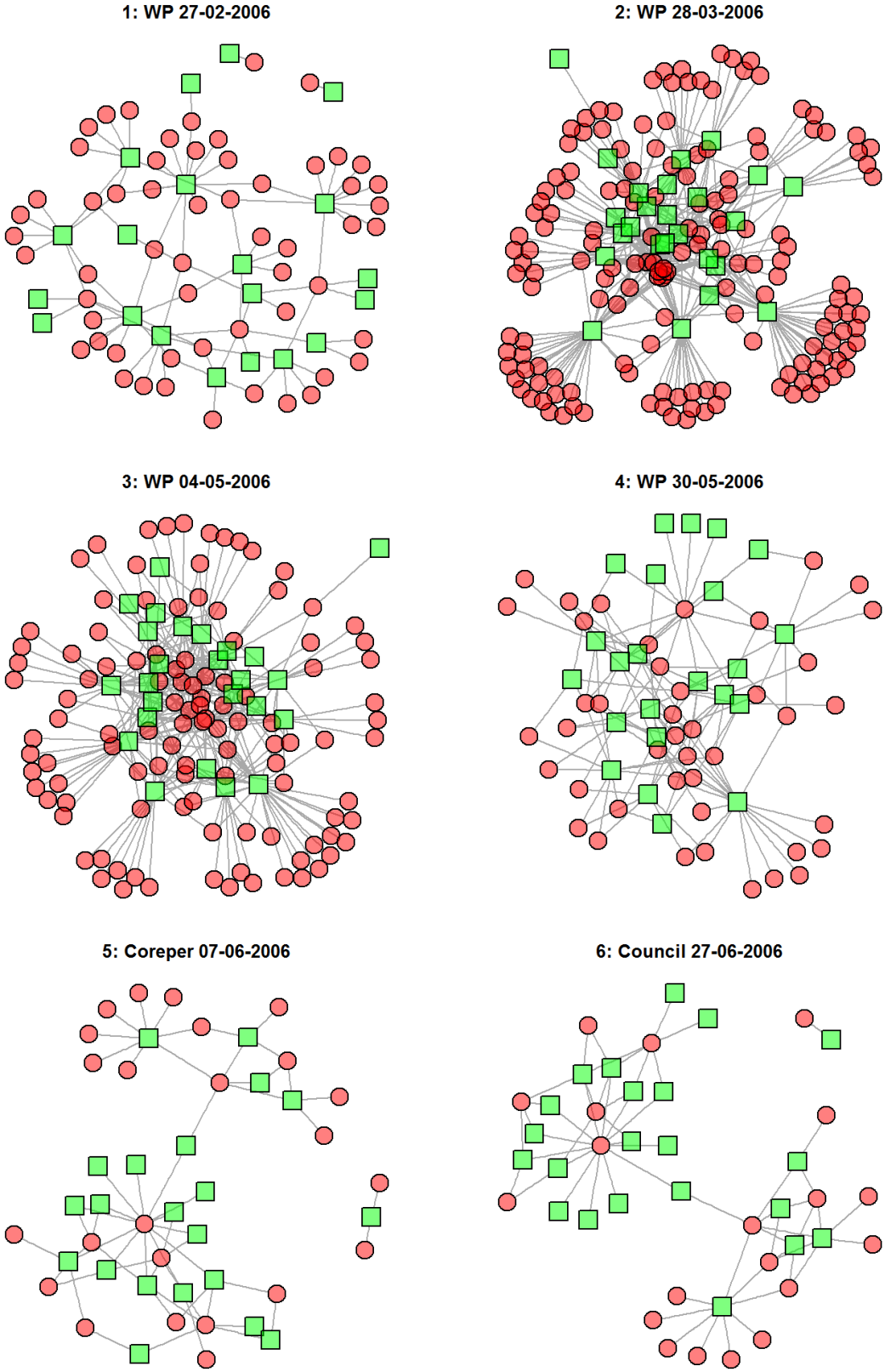
Figure 1 provides the country-position network graphs for the six negotiation stages and Figure 2 plots some basic summary statistics. The number of negotiation positions plotted in the upper left panel of the figure peaks at 158 at the second negotiation stage and continuously decreases afterwards until it reaches its minimum of 20 at the end of the process. The number of active negotiators plotted in the upper right panel follows roughly the same pattern, even though the variation is much less pronounced. Rising from a low of 20 negotiators in the first stage, all 25 member states stated at least one position at the second negotiation stage. This number fell to 23 and 21 member states at the fourth and fifth, only to rise slightly again to 22 at the sixth stage. Average support group size plotted in the lower left panel steadily rose from 1.6 supporting member states per negotiation position at the first negotiation stage to its maximum value of 3.1 supporting member states at the fourth negotiation stage. After the fourth negotiation stage, the figure for support group size essentially levelled off.[11] As indicated by the series of network graphs plotted in Figure 1, this increase in average support group size over time seems to have been largely a result of a decrease in isolated positions held by a single member state, either because they were withdrawn or incorporated into the text. Over time, the network becomes more and more clustered, with fewer positions being supported by larger groups of member states. This interpretation is also supported by the simultaneous decrease in the average number of positions held by member states, which is plotted in the lower right panel of Figure 2. The decrease started after the second negotiation stage, became particularly pronounced after the third stage, and only levelled off after the fifth.

Figure 3 shows the distribution of values on the original bargaining success variable at various points in time during the negotiation process. Up to the fourth stage of negotiations, both the proportion of withdrawn and fully accepted positions steadily increased. The proportion of partially accepted positions increased as well, but only until stage 3. As more existing positions were 'cleared' and fewer new positions were introduced after stage 2 of the process, the overall number of positions decreased markedly in stages 3 and 4. With the exception of a few withdrawals, not much progress was made in stage 5 (i.e. the Coreper meeting). Most positions were maintained by member states at this point in time. The negotiation process ended with the ministerial meeting, which resulted in a large proportion

[11] Much of the dip in average support group size at negotiation stage 5 is due to positions not being recorded for a member state whose positions are recorded before and afterwards. It seems likely that this member state's positions are missing by accident.

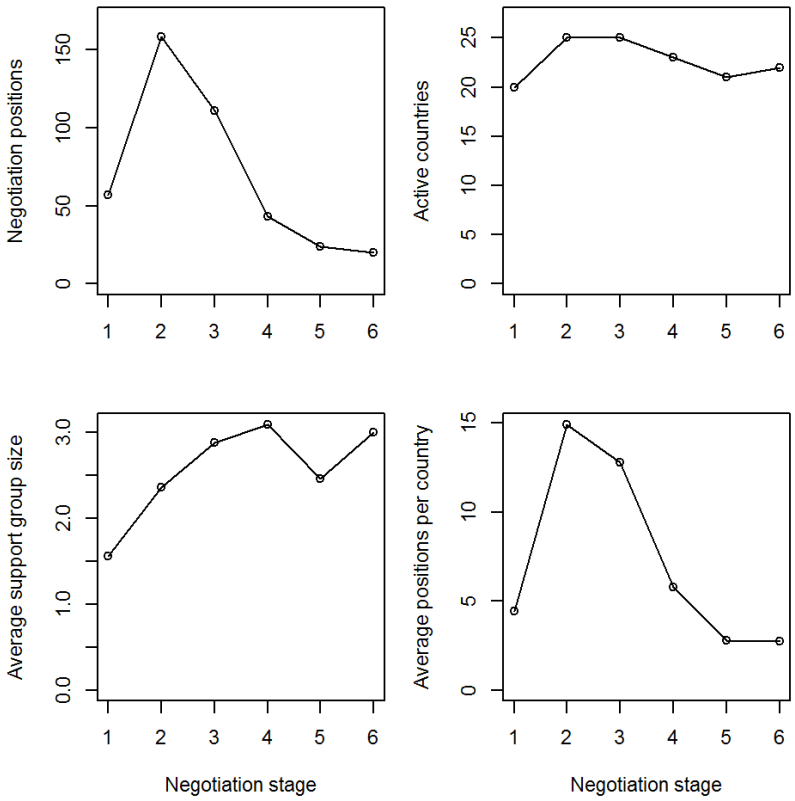
of withdrawals and partial adoptions. The latter is characteristic of a compromise agreement. Only a small proportion of demands were fully incorporated into the legal text as a result of ministers' discussions. One objection was also maintained after the ministerial meeting as the agreement constituted only a 'general approach', not a definite 'political agreement'.

Figure 1 Country-position support network at different negotiation stages



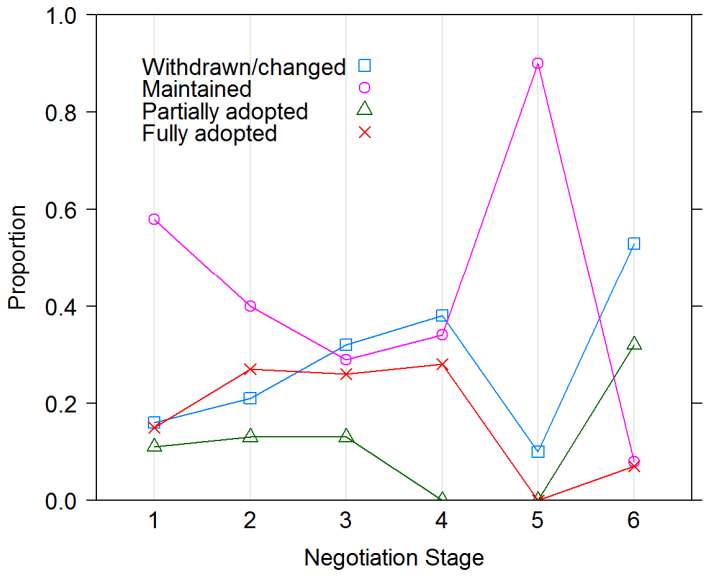
Note: Fruchterman-Reingold layout of country-position support network without isolates. Squares denote countries, circles denote negotiation positions. Panel titles provide the number of the negotiation stage, the Council body dealing with the dossier (WP stands for working party), and the date of the meeting.

Figure 2 **Statistics for country-position support network at different negotiation stages**



Note: Negotiation positions refer to the total number of bargaining demands made by countries. Active countries refer to the number of countries with at least one stated negotiation position. Average support group size refers to the ratio of support relationships of countries to negotiation positions. Average number of positions per country refers to the ratio of negotiation positions to active countries in the network.

Figure 3 Distribution of bargaining success variable at different negotiation stages



Note: The figure plots the proportion of negotiation positions experiencing different types of bargaining outcomes at different stages of the negotiation process.

Bargaining power, negotiation positions, and influence on policy outcomes

This section explores the influence of bargaining power on negotiation behaviour and outcomes. First, I investigate the relationship between various forms of power and the number of bargaining demands made by governments; then I look at how bargaining power affects the adoption of those demands. To investigate the operation of informal politics in the Council, I am particularly interested in whether the effect of bargaining power varies across different stages of the negotiation process and therefore also across different negotiation fora. To explore these questions, I rely on bi- and multivariate regression analyses. Unfortunately, the explanatory variables based on voting weights, economic size, and population size, are all extremely highly correlated with each other (see Tables A1 and A2 in the appendix). Thus, it is not possible to delineate their separate effects by including them in the same statistical model. Since these variables probably tap the same underlying concept of state size, with voting weights being an imperfect correlate of size, I estimate separate models for each of those variables and adjudicate between them based on various model fit statistics.

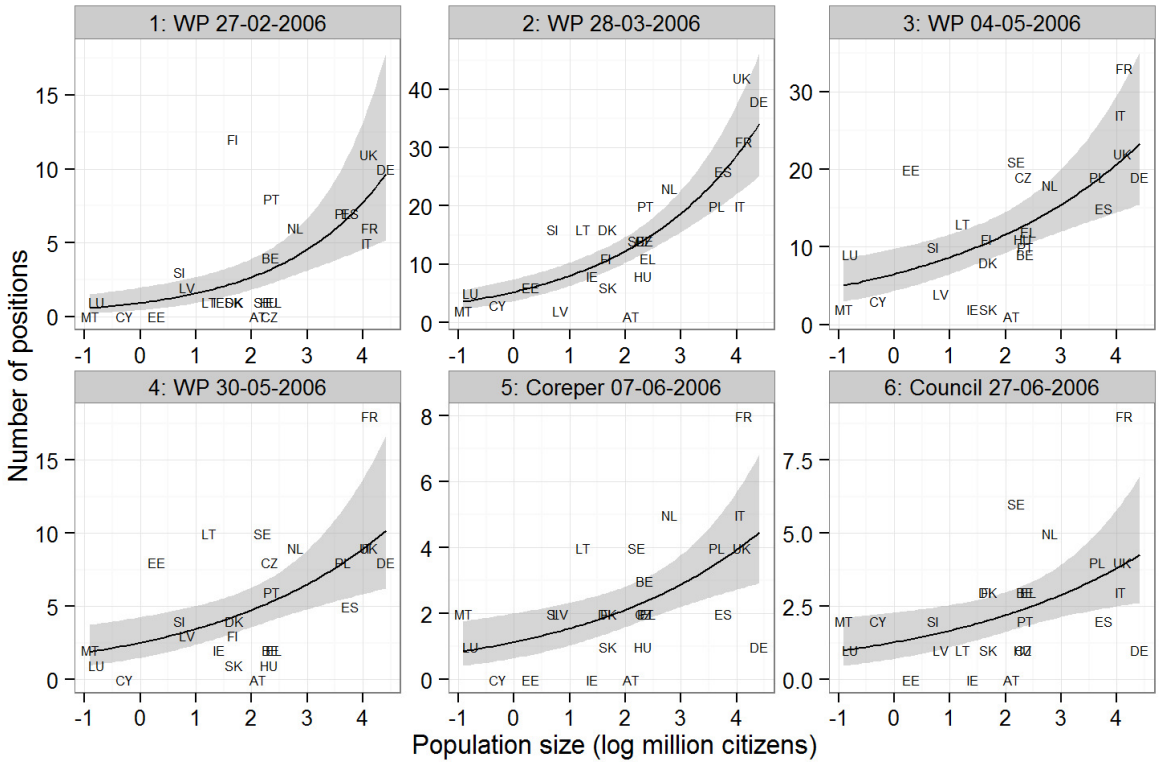
Bargaining power and the number of negotiation positions

To investigate the hypothesis that the bargaining power of individual states affects their propensity to make demands, I estimate negative binomial regressions models for over-dispersed count data. The dependent variable is the number of positions stated at a particular stage of the negotiation process, and the independent variables consist of various indicators

for bargaining power. The network data are aggregated by country and negotiation stage, resulting in a panel-structured sample of 25 x 6 = 150 observations.

Figure 4 plots the results for a model with population size, negotiation stage indicators, as well as their interactions as independent variables (see Model 6 in Table A4 in the appendix for full estimation results). Given that the number of positions advocated by member states decreases generally over time, it is not surprising that the negotiation stage indicators add significantly to the fit of the model. However, interaction terms between negotiation stage indicators and population size are not significant. Thus, the results suggest that population size has a positive effect on the number of positions advocated by a member state, and that this positive relationship is not affected by the particular negotiation stage. Furthermore, the relationship holds regardless of the indicator used for state size (see Models 3 and 9 in Table A4 in the appendix). The bivariate regression model with population size as bargaining power variable has somewhat better fit statistics than models with other variables, but the results for economic size and voting weight are essentially identical. In other words, larger member states generally demand more changes to the legal text than smaller ones, regardless of the stage and forum in which negotiations take place.

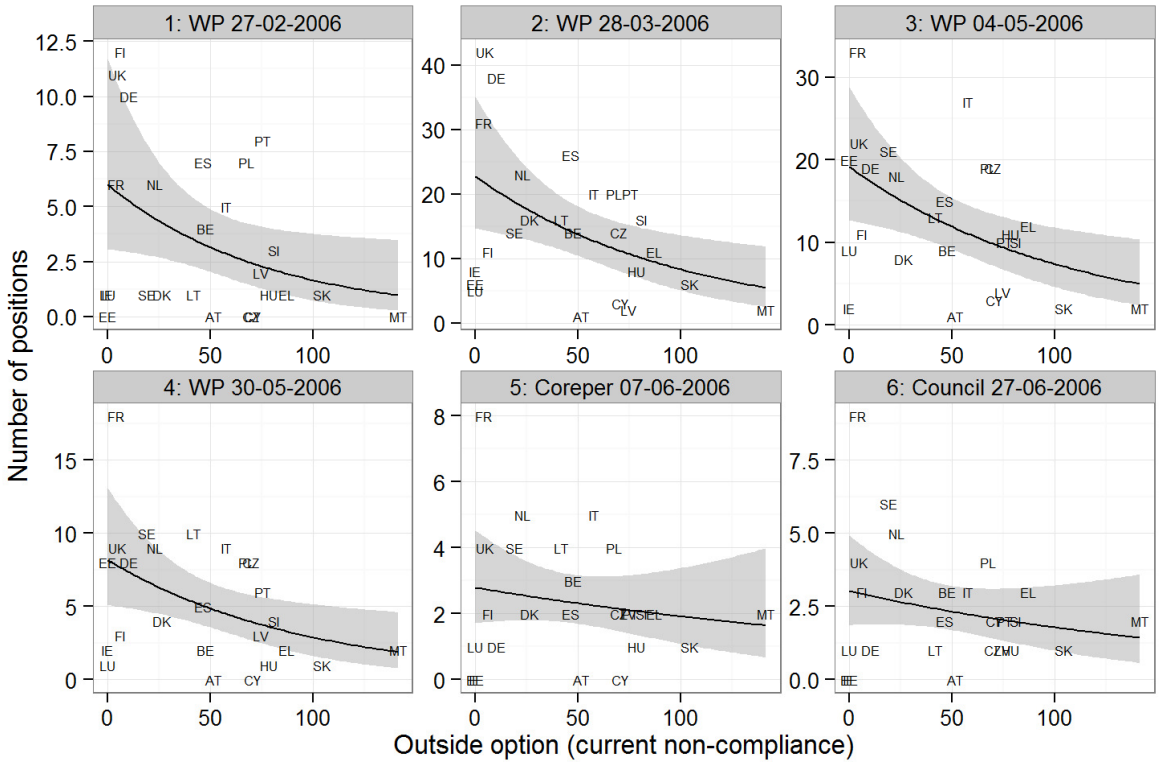
Figure 4 **Predicted number of negotiation positions as a function of population size, by negotiation stage**



Note: Predicted values are based on a bivariate negative binomial regression model with number of negotiation positions as dependent variable and population size as the independent variable. The model also includes dummy variables for the different negotiation stages, as well as their interactions with the bargaining power variable. The shaded area around the prediction curve indicates 95% confidence intervals. See Model 6 in Table A3 in the appendix for full model results.

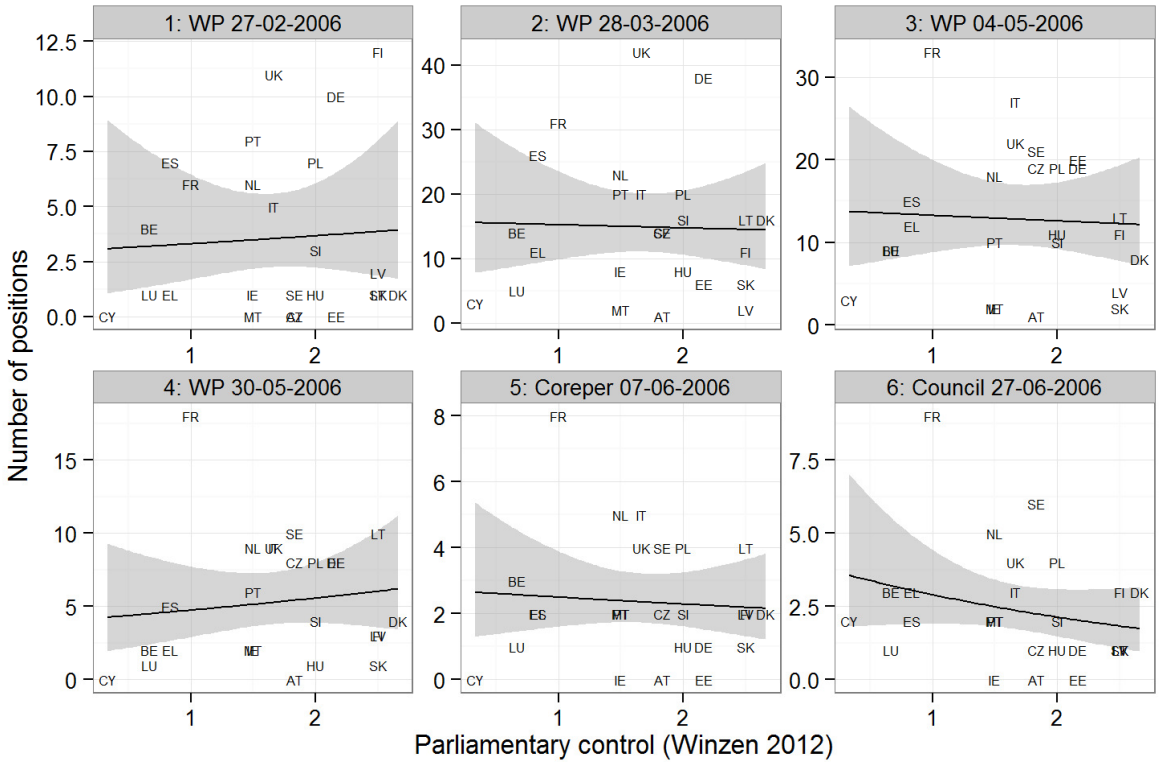
In contrast to the positive effect of variables measuring state size, favourable outside options seem to have a negative effect on the number of positions advocated by a member state, and the strength of parliamentary control of EU affairs seems to have no effect on the number of bargaining demands made at all. Figures 5 and 6 present the predicted values of models involving those variables as independent variables, together with indicator variables for different negotiation stages and their interaction terms (see Models 12 and 15 in Table A4 in the appendix). Again, it is noteworthy, as suggested by visual inspection of the plots and confirmed by formal statistical tests, that the estimated relationships do not change significantly over time and negotiation forum. In contrast to expectations, more favourable outside options seems to result in a lower number of negotiation demands. As such, this finding does not necessarily imply that a favourable outside option is not a source of power, but might indicate that governments that are happy with the status quo have little incentive to actively shape new policy that is supposed to replace it.

Figure 5 **Predicted number of negotiation positions as a function of outside option value, by negotiation stage**



Note: Predicted values are based on a bivariate negative binomial regression model with number of negotiation positions as dependent variable and outside option value as the independent variable. The model also includes dummy variables for the different negotiation stages, as well as their interactions with the bargaining power variable. The shaded area around the prediction curve indicates 95% confidence intervals. See Model 12 in Table A3 in the appendix for full model results.

Figure 6 **Predicted number of negotiation positions as a function of parliamentary control, by negotiation stage**

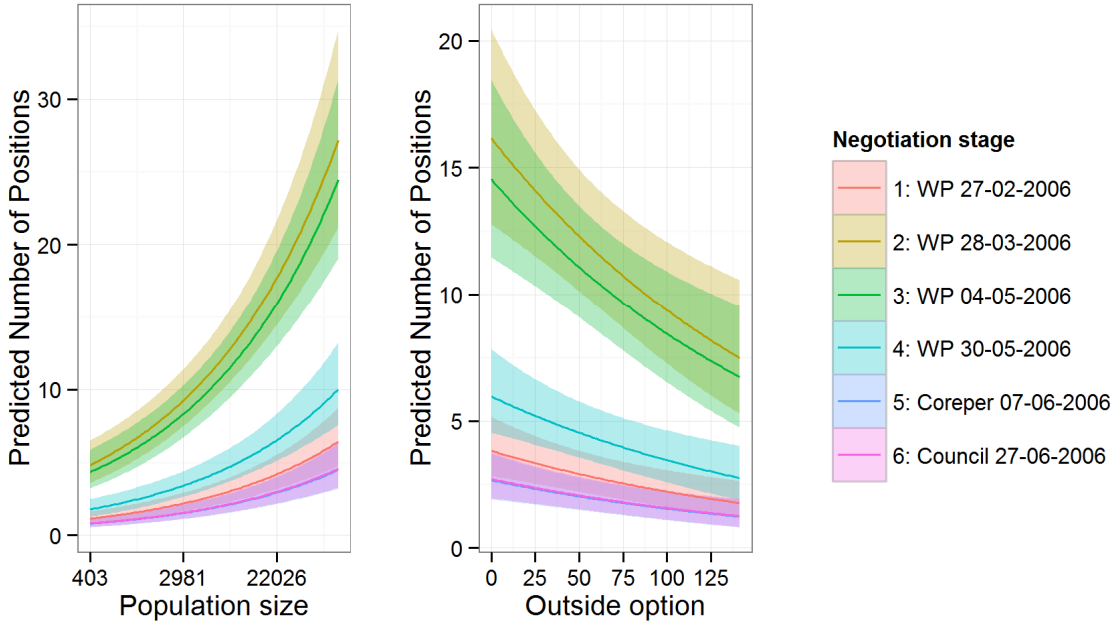


Note: Predicted values are based on a bivariate negative binomial regression model with number of negotiation positions as dependent variable and parliamentary control as the independent variable. The model also includes dummy variables for the different negotiation stages, as well as their interactions with the bargaining power variable. The shaded area around the prediction curve indicates 95% confidence intervals. See Model 15 in Table A3 in the appendix for full model results.

Turning to the effect of parliamentary control, Figure 6 clearly indicates the absence of any relationship between that variable and the number of bargaining demands. The essentially bivariate results presented in Figures 4 to 6 also hold up in multivariate models that include all or a subset of those variables simultaneously (see Table A4 in the appendix). Figure 7 summarises the overall results of this section by plotting the positive relationship between population size and number of demands as well as the negative relationship between outside option value and number of demands for different negotiation stages. The figure is based on a model that includes both population size and outside option as explanatory variable, plus negotiation stage indicator variables (see Model 2 in Table A4 in the appendix). It plots the predicted number of positions over the range of values of one of the explanatory variables while holding the other variable constant at its mean. The plots indicate that the predicted number of positions in the second and third negotiation stage are significantly higher than the predicted number of positions in the first fourth, fifth and sixth negotiation stage. However, those differences are not a result of an interaction effect, but the generally higher number of

positions held by member states in those stages. As was seen in the lower right panel of Figure 2, the average number of positions held by member states in stage two and three is 14.9 and 12.8, respectively, while the corresponding figures for the other stages range between 2.7 in stage 6 and 4.5 in stage 1. Thus, even though the baseline rates differ across negotiation stages, the relationship between the bargaining power variables and the number of positions remains constant. The figure also demonstrates that the effects of bargaining power variables are of substantive size for all negotiation stages, given their respective baseline rates. Moving from the minimum to the maximum value of the outside option variable while holding population size constant more than halves the predicted number of positions; and doing the same for the population size variable while holding the outside option variable constant increases the predicted number of positions by more than five times.

Figure 7 **Predicted number of negotiation positions as a function of population size, outside option, and negotiation stage**



Note: Predicted values are based on a multivariate negative binomial regression model with number of negotiation positions as dependent variable and population size and outside option values as independent variables. The model also includes dummy variables for the different negotiation stages. The shaded area around the prediction curve indicates 95% confidence intervals. See Model 2 in Table A4 in the appendix for full model results.

Bargaining power and the propensity of a negotiation position being incorporated into the final agreement

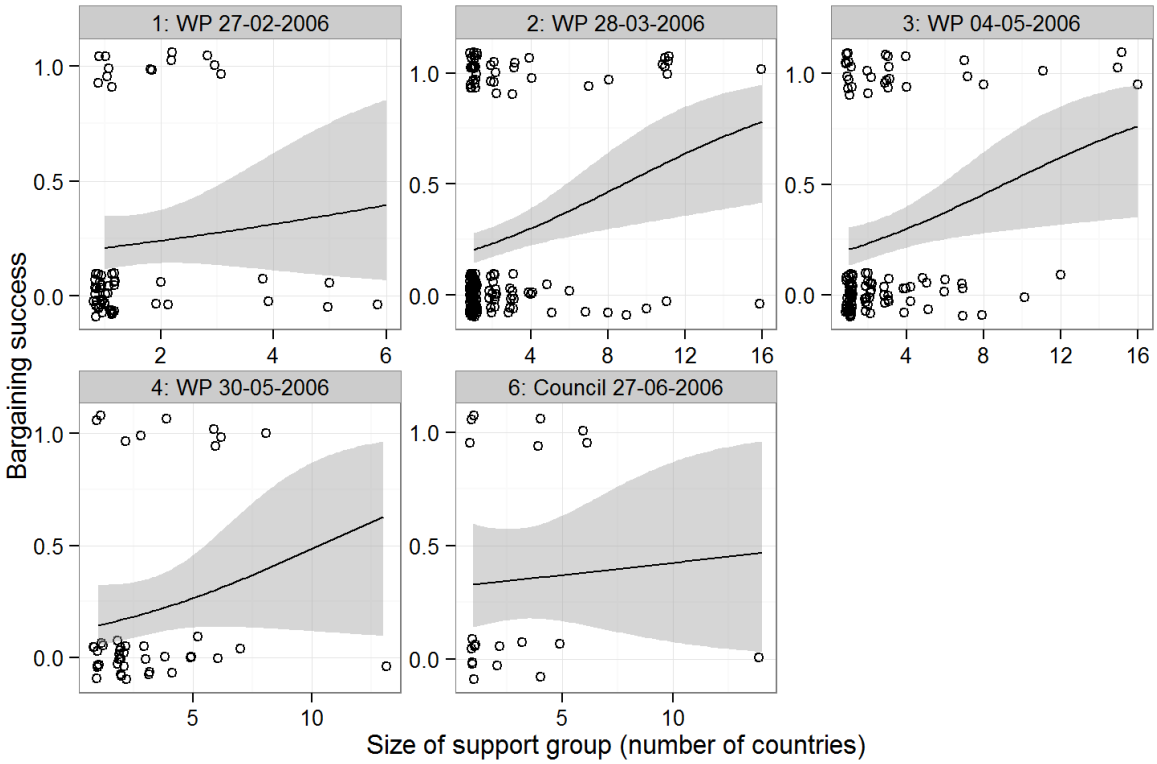
Given the binary nature of the bargaining success variable, I employ logistic regression models to investigate the probability of a certain position being incorporated into the legal

text. As mentioned before, to investigate this question, the data are aggregated by negotiation position. The number of bargaining demands varies by negotiation stage, resulting in an unbalanced panel-structured sample of 389 observations in total.[12] Note that stage 5 of the negotiations (i.e. the Coreper meeting) was dropped from the analysis, as this stage lacks variation in the dependent variable. Positions were only maintained or dropped after the Coreper meeting. None of them were incorporated into the legal text, not even in parts. When considering the effect of support group size on bargaining success, I do not only examine the aggregated versions of bargaining power variables, I also consider an 'unweighted' form of support group size. This unweighted variable only counts the number of countries supporting a position, without taking their bargaining power into account. In principle, it is important to consider this variable to investigate whether aggregate bargaining power of a support group or 'just' the pure strength in numbers matters for bargaining success in the Council. Unfortunately, this unweighted support group size variable is highly correlated with support group size variables including weights for state size, which makes it difficult to identify their separate effects with any degree of certainty.

Figure 8 plots the results of a regression model with bargaining success as the dependent variable and the number of countries supporting a position as the independent variable (see Model 3 in Table A5a in the appendix). The inclusion in the model of negotiation stage indicator variables and their interactions with the support group size variable allows for varying intercepts and slopes in that bivariate relationship across negotiation stages. The model estimates suggest a consistently positive effect of support group size across negotiation stages, with statistical tests indicating no variation in the shape of that relationship across time and negotiation forum.

[12] The distribution of the number of positions across different negotiation stages is as follows: 1: 57, 2: 158, 3: 111, 4: 43, 6: 20.

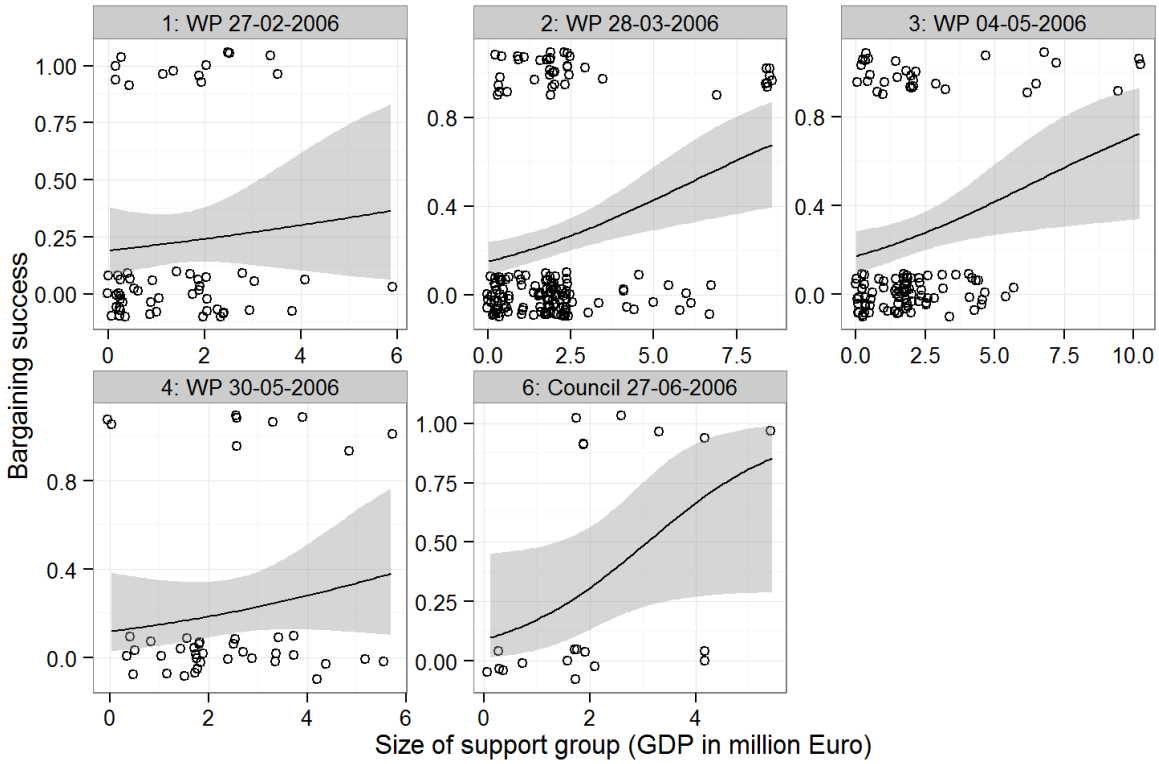
Figure 8 **Bargaining success as a function of the number of countries supporting the position, by negotiation stage**



Note: Predicted values are based on a bivariate logistic regression model with bargaining success as dependent variable and number of supporting countries as the independent variable. The model also includes dummy variables for the different negotiation stages, as well as their interactions with the support group size variable. The shaded area around the prediction curve indicates 95% confidence intervals. See Model 3 in Table A5a in the appendix for full model results.

The results for weighted support group size variables based on different forms of state size are similar. In terms of model fit statistics, they all perform better than the unweighted support group size variable, but the differences are marginal (see Table A5a). The best-fitting model is based on the economic size of countries (see Model 12 in Table A5a in the appendix). I present the results for this variable in Figure 9.

Figure 9 **Bargaining success as a function of the combined economic size of countries supporting the position, by negotiation stage**

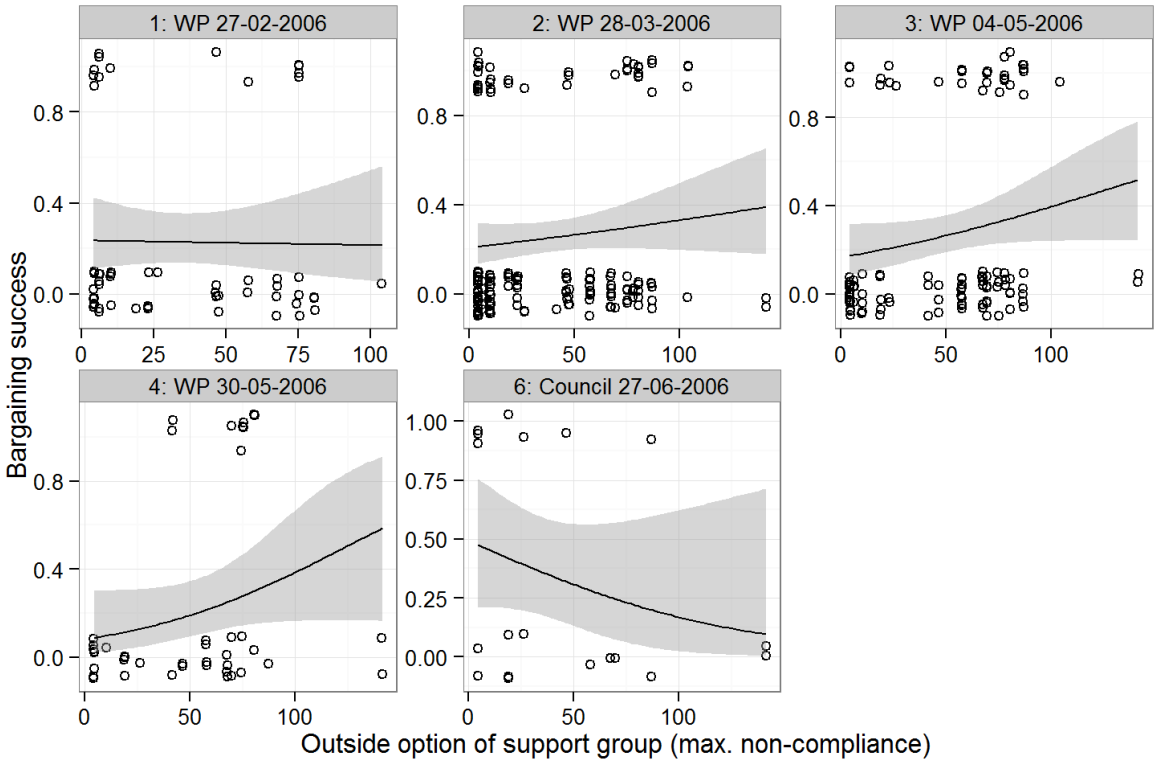


Note: Predicted values are based on a bivariate logistic regression model with bargaining success as dependent variable and the combined economic size of support group members as the independent variable. The model also includes dummy variables for the different negotiation stages, as well as their interactions with the support group size variable. The shaded area around the prediction curve indicates 95% confidence intervals. See Model 12 in Table A5a in the appendix for full model results.

In contrast to the unweighted support group size and the weighted support group size variables with weights based on state size, the maximum outside option value and the maximum parliamentary control of support group members does not seem to have a discernable effect on bargaining success. Figures 10 and 11 present the results of regression models involving those variables (see Models 15 and 18 in Table A5b in the appendix). Figure 10 indicates that the relationship between outside option value and bargaining success varies, from clearly no effect in the first negotiation stage, over a positive effect in the second, third, and fourth stage, to a negative effect in the sixth stage. However, too much uncertainty surrounds those estimates to conclusively reject the null hypothesis of no relationship overall between those two variables. The same conclusion holds for the effect of parliamentary constraints. Figure 11 indicates a consistently positive relationship between bargaining success and parliamentary constraints across all negotiation stages. Indeed, the size of the regression coefficient in this essentially bivariate model is also statistically significant. However, once the parliamentary control variable is included in a regression

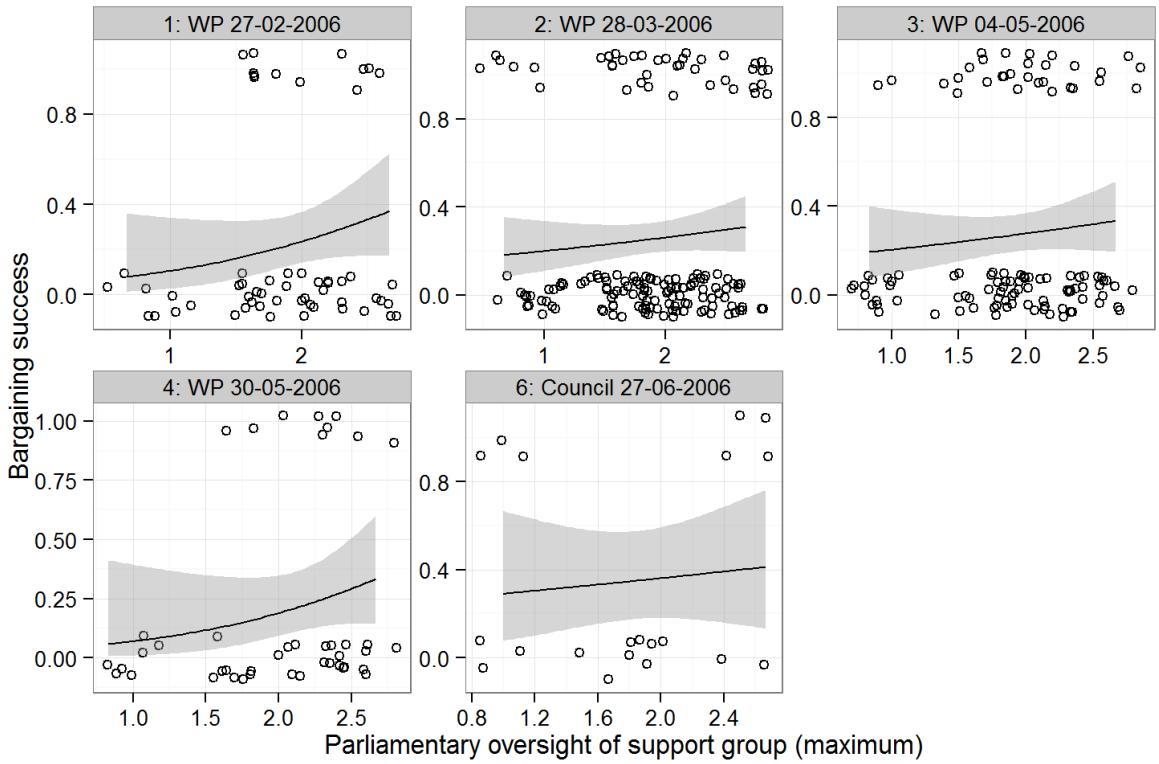
model with any of the weighted or unweighted support group size variables, the effect disappears (see Models 1 to 4 in Table A6 in the appendix). The bivariate correlation between the parliamentary control variable and those variables ranges between 0.31 for economic size to 0.5 for the number of support group members (see Table A2 in the appendix). The particularly high correlation with the simple number of support group members suggests that the apparent effect of parliamentary control in the bivariate analysis is an artefact of the aggregation method, with larger support groups being more likely to include a member with strong parliamentary constraints.

Figure 10 Bargaining success as a function of the maximum outside option value amongst countries supporting the position, by negotiation stage



Note: Predicted values are based on a bivariate logistic regression model with bargaining success as dependent variable and the maximum outside option value of support group members as the independent variable. The model also includes dummy variables for the different negotiation stages, as well as their interactions with the support group size variable. The shaded area around the prediction curve indicates 95% confidence intervals. See Model 15 in Table A5b in the appendix for full model results.

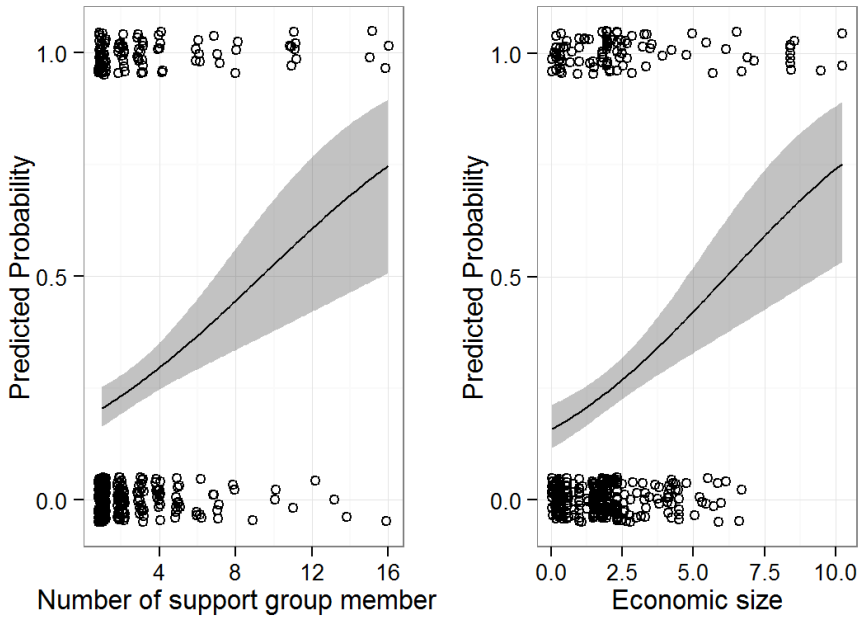
Figure 11 **Bargaining success as a function of the maximum parliamentary control value amongst countries supporting the position, by negotiation stage**



Note: Predicted values are based on a bivariate logistic regression model with bargaining success as dependent variable and the maximum parliamentary control value of support group members as the independent variable. The model also includes dummy variables for the different negotiation stages, as well as their interactions with the support group size variable. The shaded area around the prediction curve indicates 95% confidence intervals. See Model 18 in Table A5b in the appendix for full model results.

Given the lack of statistically significant relationships of variables measuring other sources of bargaining power, I focus the interpretation of substantive effect sizes on the number of support group members and combined economic size (see Models 5 and 6 in Table A6). The latter is the best-performing variable amongst the combined state size variables. The left panel of Figure 12 indicates that the probability of a position being incorporated into the legal text increases from 0.21 for positions supported by a single member state to 0.75 for positions supported by 16 member states. Similarly, the probability of a position being incorporated into the legal text increases from 0.16 for a cumulative economic size of support group members of 0.024 billion Euro in GDP, to 0.75 for a cumulative economic size of 10.230 billion Euro in GDP. The general finding from the analysis is that support group size matters considerably, but in the current analysis it is not possible to differentiate clearly between the pure number of countries in the support group and their cumulative state size.

Figure 12 Bargaining success as a function of number of countries in and economic size of support group, pooled across all negotiation stages



Note: Predicted values are based on bivariate logistic regression models with bargaining success as dependent variable and the number of countries in the support group or their combined economic size as the independent variable. The shaded area around the prediction curve indicates 95% confidence intervals. See Models 5 and 6 in Table A6 in the appendix for full model results.

Conclusions

De facto, much of the Council's legislative decision-making takes place in fora that are not even mentioned in the Treaties. The membership of the Council's 'preparatory bodies' is at best ill-defined. Furthermore, few formal rules and procedures structure the interactions of group members. Of course, the formal rules established to structure proceedings and decision-making at the ministerial level are to some extent applied in an analogous manner to working party and committee meetings, but even some of those formal rules are sometimes supplanted or circumvented by informal practices and conventions. The voting rule is a case in point. Despite the possibility to adopt legislation by qualified majority, member states make the overwhelming majority of decisions still by consensus. Thus, actual Council decision-making looks quite differently from what formal rules would suggest, leaving much scope for effects of informal practices, norms, and procedures.

Indeed, some research suggests that both the process through which the Council reaches decisions and the outcomes produced by that process are quite peculiar in comparison to other intergovernmental negotiation settings. Qualitative research suggests that the 'hard bargaining image' of the Council might be misleading, and that government representatives

in the Council's preparatory bodies might be socialized into norms limiting at least some forms of purely instrumentalist behaviour, and at the same time obliging members to practice 'mutual responsiveness' and the 'collective legitimization of arguments' (Lewis 1998, 2005). According to this perspective, the high prevalence of consensus decision-making is the result of an internalized decision-making norm. More generally, a culture of compromise is supposed to ensure the accommodation of divergent interest (Lewis 2005). Although it is more opaque about the actual mechanisms at work, recent quantitative research comes to very similar conclusions. The main findings of Thomson's (2011:279–280) comprehensive study of 125 decision-making cases suggest that decision-making processes are "consensual and inclusive" and decision-making outcomes "equitable".

In order to shed more light on how the Council reaches its decisions, and what role bargaining power place in this process, this study conducted a quantitative case study of the adoption process of the Ambient Air Directive in 2006. In contrast to existing quantitative research, the study does not only link inputs at the beginning of the process to outputs at the end, but maps the entire process as a two-mode network linking member states to negotiation positions at different points in time. Using a quantitative methodology also overcomes some of the cognitive limitations faced in analysing complex multi-actor, multi-issue negotiations and their dynamics over time. Based on this network representation of the negotiation process, the statistical analysis focused on the effect of bargaining power on the number of positions advocated by particular member states as well as the chances of particular positions being incorporated into the final agreement.

Regarding the number of negotiation positions, the results of the analysis indicate that parliamentary oversight has no effect, while the value of a member states outside option seems to decrease the number of positions made. At first sight, the latter finding seems to contradict the expectation about the effect of this source of bargaining power. However, an alternative interpretation of this finding is that bargaining power only leads to a larger number of demands when the member state is interested in shaping a new policy. A favourable outside option might decrease the incentives for a member state to engage actively in negotiations. Thus, the negative relationship between outside option value and number of positions highlights the 'motivation to shape new policy' as a scope condition for the expected relationship between bargaining power and number of negotiation positions to hold.

More unambiguously, the study results clearly demonstrate that larger member states make more bargaining demands than smaller ones. This finding holds regardless of the precise indicator used for measuring member state size (i.e. voting weight, population size, or

economic size). Furthermore, the relationship holds across different stages of the negotiation process. Thus, bargaining power matters for the number of demands a country makes in Council negotiations, and this relationship holds for all stages in the negotiation process. If "self-restraint" is an informal norm in Council negotiations, smaller member states are more bound by it than larger ones. And if the norm applies at all, it applies in the same way throughout the Council machinery, not just its preparatory bodies.

With respect to the adoption of particular negotiation positions, the analysis indicates that neither parliamentary constraints nor outside options affect the bargaining success of the group of member states supporting a position. However, both the simple number of member states supporting a position and the overall size of the support group in terms of voting weights, population, or economic output has a strong positive effect on the probability of a position to be incorporated into the legal text. Unfortunately, the unweighted and weighted support group size variables are highly correlated, making it impossible in this study to distinguish empirically between the effect of the pure number of member states and the effect of their combined bargaining power. Conceptually, it seems more likely that the association between number of group members and bargaining success is an artefact of combined bargaining power being both functionally related to the number of group members and causally to bargaining success, rather than the other way round. To take an extreme example, few people would expect a position supported by Malta, Cyprus, Luxembourg and Slovenia to have the same success chances as a position supported by Germany, France, the United Kingdom and Italy. However, some existing research argues that Council decision-making is rather equitable, so future research should investigate this possibility further.

With respect to normative concerns about informal politics in the Council, the conclusions from this study are rather benign. Although it needs to be acknowledged that the study was confined to two particular aspects of Council decision-making and how they are affected by different sources of bargaining power in one particular case, the results suggest that there are no qualitative differences over time or across negotiation fora in how negotiations are being conducted in the Council and what determines their outcomes. The study results do not address issues related to the input or output legitimacy of Council decision-making, but has implications for our evaluation of throughput legitimacy. Much of the Council's decision-making process lacks transparency, especially at the level of working parties and more senior committees. However, if negotiations amongst government officials at lower levels are conducted in the same manner as negotiations in the more transparent settings of ministerial meetings, the lack of transparency in those more informal arenas is less

of a concern for ensuring the accountability of decision-makers. The results of this study suggest that government officials in working parties and committees can indeed be seen as 'stand-in' negotiators for their ministers. They lighten ministers' workload while negotiating in a similar manner and according to the same logic as their political superiors, leading to comparable policy outcomes.

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Appendix

Figure A1 Extract from Council document

Article 15 bis

Concentration cap for the protection of human health [21]

1. Member States shall [22] ensure that concentrations of $PM_{2,5}$ in ambient air do not exceed the concentration cap laid down in Section C of Annex XIV throughout their territory [23] as from the date specified therein.

2. The margins of tolerance laid down in Section C of Annex XIV shall apply in accordance with Article 21.

Article 16

Requirements in zones and agglomerations where ozone concentrations exceed the target values and long-term objectives

1. Member States shall take all necessary measures not entailing disproportionate costs to ensure that the target values and long-term objectives are attained.

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[21] DK/FI/IE/IT/PT/SE/UK: supported the concentration cap. IT: asked for new attainment date: 2015. FR: replace the concentration cap with a target value of 20 µg/m^3 that would apply in 2010 and add a limit value of 25 µg/m^3 that would apply in 2015; new Article 15 bis: "*1. Member States shall take all necessary measures not entailing disproportionate costs to ensure that the target value laid down in Section C of Annex XIV as from the date specified therein. 2. Member States shall ensure that the limit value for $PM_{2,5}$ laid down in Section CC of Annex XIV is achieved within the timeframe specified therein.*".

[22] CY/CZ/DE/EL/HU/LT/LU/NL/PL/SI: Replace the rest of the sentence with " *take all necessary measures not entailing disproportionate costs with a view to attaining the target value laid down in Section C of Annex XIV as from the date specified therein.*".

[23] UK: Delete "throughout their territory" and add new sentence: "*Compliance with this requirement shall be assessed in accordance with Section CC of Annex XIV.*".

Source: Council (2006) Note from General Secretariat to Delegations: Proposal for a Directive of the European Parliament and of the Council on ambient air quality and cleaner air for Europe. 8494/06, 19 April.
Note: This extract from one of the Council documents illustrates the type of information used to identify negotiation positions and to code the support for those positions from member states. Negotiation positions and their support relationships with member states were used to construct the position-support network at different points in time. For example, in footnote 21 of this extract, the first position was identified as 'supported the concentration cap'. This position was supported by Denmark, Finland, Ireland, Italy, Portugal, Sweden, and the United Kingdom. The second position was identified as 'asked for new attainment date: 2015'. This position was only supported by Italy.

Table A1 Correlation matrix of variables for analysis of number of bargaining positions

	Positions	Outside option value	Parliamentary control	Economic size (log)	Population size (log)	Voting weights (log)
Positions	1.00	-0.25**	-0.01	0.42**	0.44**	0.44**
Outside option value	-0.25**	1.00	-0.00	-0.46**	-0.26**	-0.25**
Parliamentary control	-0.01	-0.00	1.00	-0.13	0.04	-0.12
Economic size (log)	0.42**	-0.46**	-0.13	1.00	0.92**	0.92**
Population size (log)	0.44**	-0.26**	0.04	0.92**	1.00	0.97**
Voting weights (log)	0.44**	-0.25**	-0.12	0.92**	0.97**	1.00

Note: **p < 0.01, *p < 0.05. *N*=150 country-negotiation stages.

Table A2 Correlation matrix of variables for analysis of bargaining success

	Countries	Population size	Economic size	Voting weights	Outside option value	Parliam. control	Success
Countries	1.00	0.84**	0.78**	0.95**	0.60**	0.50**	0.23**
Population size	0.84**	1.00	0.98**	0.96**	0.36**	0.35**	0.23**
Economic size	0.78**	0.98**	1.00	0.92	0.25**	0.31**	0.24**
Voting weights	0.95**	0.96**	0.92**	1.00	0.51	0.40**	0.24**
Outside option value	0.60**	0.36**	0.25**	0.51**	1.00	0.35**	0.10
Parliamentary control	0.50**	0.35**	0.31**	0.40**	0.35**	1.00	0.11*
Success	0.23**	0.23**	0.24**	0.24**	0.10	0.11*	1.00

Note: **p < 0.01, *p < 0.05. *N*=389 position-negotiation stages.

Table A3 Bivariate negative binomial regressions of number of positions and bargaining power variables

	Voting weight			Population size			Economic size			Outside option value			Parliamentary control		
	M1	**M2**	**M3**	**M4**	**M5**	**M6**	**M7**	**M8**	**M9**	**M10**	**M11**	**M12**	**M13**	**M14**	**M15**
Intercept	1.80**	1.11**	1.05**	1.80**	1.10**	1.00**	1.81**	1.11**	1.00**	1.88**	1.21**	1.18**	1.93**	1.27**	1.27**
	(0.08)	(0.15)	(0.16)	(0.08)	(0.15)	(0.16)	(0.08)	(0.15)	(0.17)	(0.09)	(0.17)	(0.17)	(0.09)	(0.18)	(0.18)
Bargaining power	0.69**	0.68**	0.93**	0.35**	0.35**	0.52**	0.29**	0.29**	0.47**	-0.01**	-0.01**	-0.01*	-0.03	-0.03	0.10
	(0.11)	(0.08)	(0.21)	(0.06)	(0.04)	(0.11)	(0.05)	(0.03)	(0.10)	(0.00)	(0.00)	(0.00)	(0.14)	(0.11)	(0.27)
Negotiation stage															
2: WP		1.44**	1.48**		1.44**	1.52**		1.44**	1.53**		1.44**	1.46**		1.43**	1.43**
		(0.18)	(0.19)		(0.18)	(0.19)		(0.19)	(0.20)		(0.22)	(0.22)		(0.23)	(0.23)
3: WP		1.33**	1.41**		1.34**	1.46**		1.35**	1.47**		1.29**	1.31**		1.28**	1.28**
		(0.18)	(0.19)		(0.18)	(0.19)		(0.19)	(0.20)		(0.22)	(0.22)		(0.23)	(0.23)
4: WP		0.45*	0.53*		0.45*	0.56**		0.47*	0.60**		0.41	0.42		0.40	0.40
		(0.20)	(0.21)		(0.19)	(0.21)		(0.20)	(0.21)		(0.23)	(0.23)		(0.24)	(0.24)
5: Coreper		-0.37	-0.28		-0.36	-0.24		-0.35	-0.22		-0.37	-0.33		-0.41	-0.41
		(0.22)	(0.23)		(0.22)	(0.23)		(0.22)	(0.24)		(0.25)	(0.25)		(0.26)	(0.26)
6: Council		-0.34	-0.25		-0.34	-0.20		-0.34	-0.22		-0.36	-0.33		-0.40	-0.41
		(0.22)	(0.23)		(0.22)	(0.23)		(0.22)	(0.24)		(0.25)	(0.25)		(0.26)	(0.26)
Interaction terms															
Power x 2: WP			-0.12			-0.10			-0.11			0.00			-0.13
			(0.26)			(0.13)			(0.12)			(0.01)			(0.36)
Power x 3: WP			-0.33			-0.23			-0.23			0.00			-0.15
			(0.26)			(0.13)			(0.12)			(0.01)			(0.36)
Power x 4: WP			-0.33			-0.21			-0.24			0.00			0.06
			(0.28)			(0.14)			(0.13)			(0.01)			(0.38)
Power x 5: Coreper			-0.33			-0.21			-0.22			0.01			-0.19
			(0.31)			(0.16)			(0.14)			(0.01)			(0.40)
Power x 6: Council			-0.39			-0.25			-0.20			0.01			-0.41
			(0.31)			(0.16)			(0.14)			(0.01)			(0.40)
AIC	871.30	763.06	769.83	869.02	757.77	762.91	873.23	765.97	769.98	892.69	807.22	815.10	905.65	827.33	835.78
BIC	880.33	787.15	808.97	878.05	781.85	802.05	882.26	790.06	809.12	901.72	831.31	854.24	914.68	851.41	874.92
Log Lik.	-432.65	-373.53	-371.91	-431.51	-370.88	-368.45	-433.62	-374.99	-371.99	-443.34	-395.61	-394.55	-449.82	-405.66	-404.89
Num. obs.	150	150	150	150	150	150	150	150	150	150	150	150	150	150	150

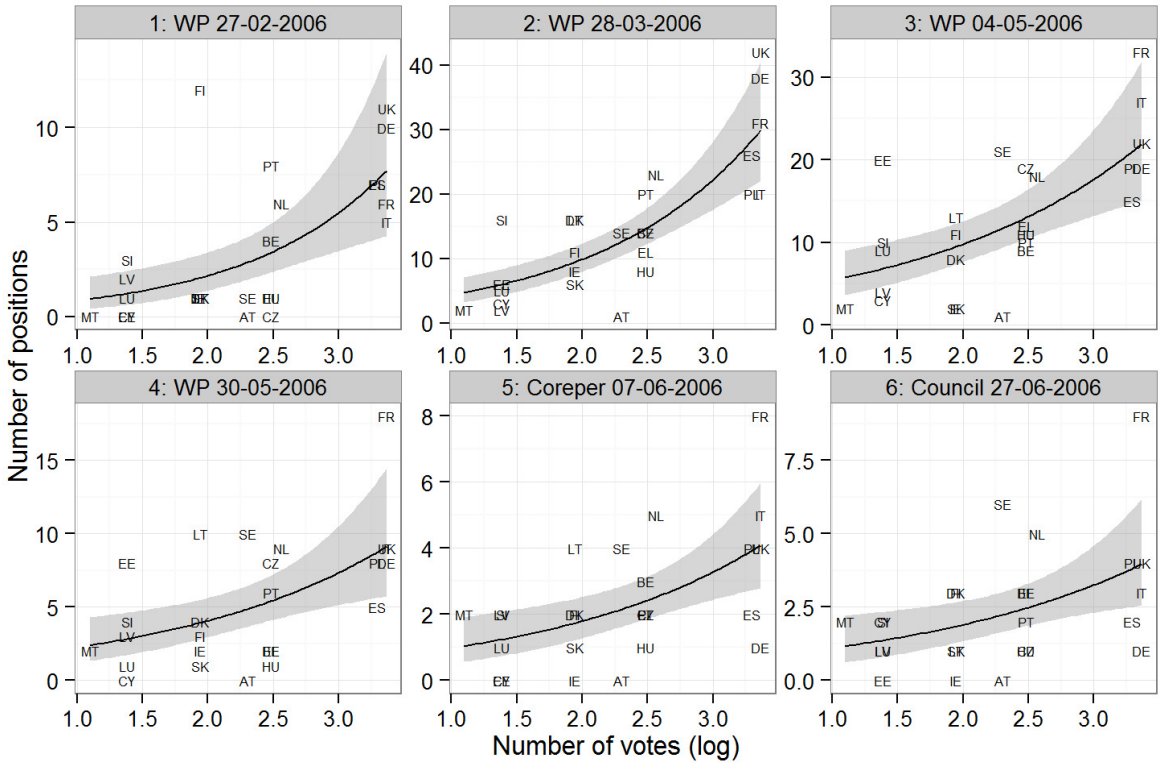
Note: **p < 0.01, *p < 0.05. The dependent variable is the number of negotiation positions. Stage dummies and their interactions allow for varying intercepts and slopes.

Table A4 Multivariate negative binomial regressions of number of positions and bargaining power variables

	Model 1	Model 2
Population size (log)	0.33**	0.32**
	(0.04)	(0.04)
Outside option value	-0.01**	-0.01**
	(0.00)	(0.00)
Parliamentary control	0.05	
	(0.08)	
1: WP 27-02-2006	-1.67**	-1.56**
	(0.42)	(0.39)
2: WP 28-03-2006	-0.23	-0.12
	(0.40)	(0.37)
3: WP 04-05-2006	-0.33	-0.22
	(0.41)	(0.37)
4: WP 30-05-2006	-1.23**	-1.12**
	(0.42)	(0.38)
5: Coreper 07-06-2006	-2.03**	-1.92**
	(0.43)	(0.39)
6: Council 27-06-2006	-2.01**	-1.90**
	(0.43)	(0.39)
AIC	749.46	747.84
BIC	779.57	774.93
Log Likelihood	-364.73	-364.92
Num. obs.	150	150

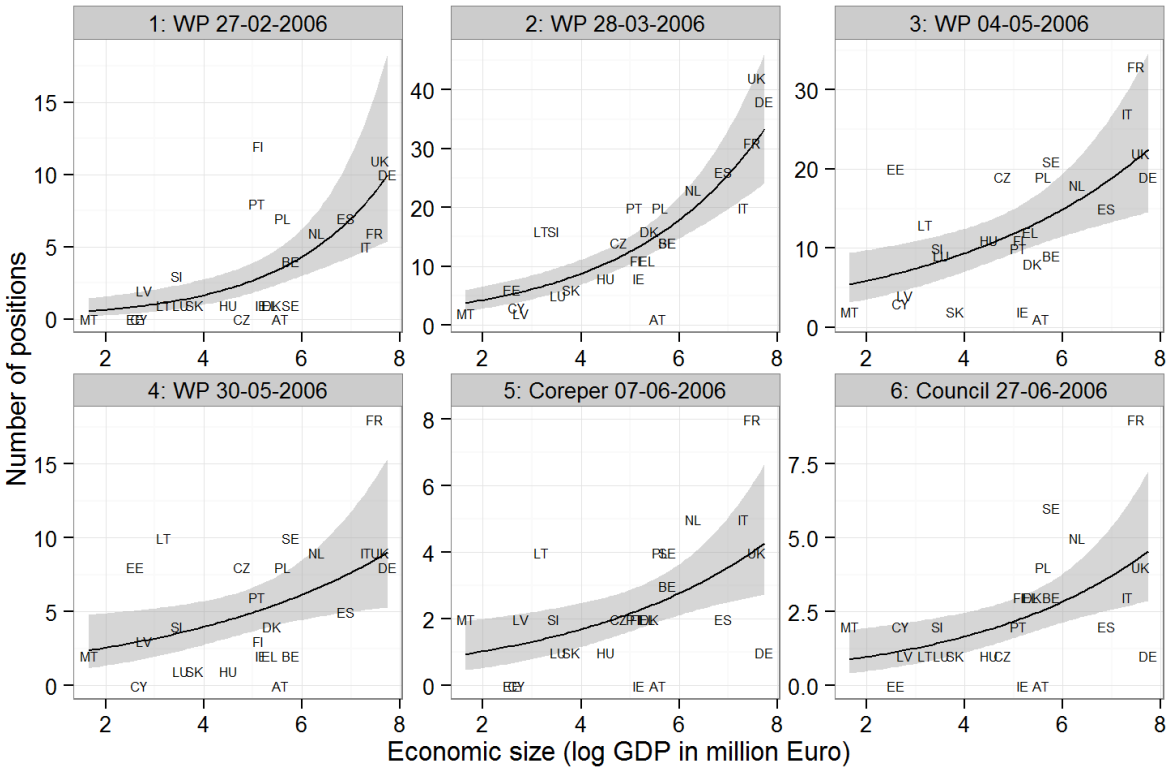
Note: **p < 0.01, *p < 0.05. The dependent variable is the number of negotiation positions.

Figure A2 Predicted number negotiation positions as a function of voting weights and negotiation stages



Note: Predicted values are based on a bivariate negative binomial regression model with number of negotiation positions as dependent variable and logged voting weights as the independent variable. The model also includes dummy variables for the different negotiation stages, as well as their interactions with the bargaining power variable. The shaded area around the prediction curve indicates 95% confidence intervals. See Model 2 in Table A1 for full model results.

Figure A3 Predicted number of negotiation positions as a function of economic size and negotiation stages



Note: Predicted values are based on a bivariate negative binomial regression model with number of negotiation positions as dependent variable and logged economic size as the independent variable. The model also includes dummy variables for the different negotiation stages, as well as their interactions with the bargaining power variable. The shaded area around the prediction curve indicates 95% confidence intervals. See Model 8 in Table A1 for full model results.

Table A5a Bivariate logistic regressions of bargaining success and support group power variables

	Number of group members			Combined voting weights			Combined population size			Combined economic size		
	Model 1	**Model 2**	**Model 3**	**Model 4**	**Model 5**	**Model 6**	**Model 7**	**Model 8**	**Model 9**	**Model 10**	**Model 11**	**Model 12**
Intercept	-1.11**	-1.07**	-1.06**	-1.12**	-1.07**	-1.14**	-1.12**	-1.09**	-1.17**	-1.12**	-1.08**	-1.14**
	(0.12)	(0.32)	(0.38)	(0.12)	(0.32)	(0.36)	(0.12)	(0.32)	(0.34)	(0.12)	(0.32)	(0.34)
Support group power	0.16**	0.17**	0.18	0.01**	0.01**	0.01	6.64**	6.74**	2.04	0.27**	0.28**	0.15
	(0.04)	(0.04)	(0.25)	(0.00)	(0.00)	(0.01)	(1.56)	(1.59)	(6.51)	(0.06)	(0.06)	(0.24)
Negotiation stages												
2: WP 28-03-2006		-0.02	-0.04		-0.04	0.02		-0.04	0.04		-0.06	-0.01
		(0.37)	(0.42)		(0.37)	(0.41)		(0.37)	(0.39)		(0.37)	(0.39)
3: WP 04-05-2006		-0.02	-0.04		-0.02	0.05		0.01	0.09		0.00	0.07
		(0.39)	(0.44)		(0.39)	(0.42)		(0.39)	(0.41)		(0.39)	(0.41)
4: WP 30-05-2006		-0.39	-0.44		-0.40	-0.32		-0.38	-0.27		-0.39	-0.33
		(0.50)	(0.56)		(0.50)	(0.55)		(0.50)	(0.54)		(0.50)	(0.54)
6: Council 27-06-2006		0.36	0.42		0.38	0.46		0.43	0.46		0.42	0.35
		(0.58)	(0.61)		(0.58)	(0.60)		(0.57)	(0.61)		(0.58)	(0.64)
Interaction terms												
Power x 2: WP			-0.01			0.01			4.99			0.14
			(0.26)			(0.01)			(6.90)			(0.26)
Power x 3: WP			-0.01			0.01			4.60			0.10
			(0.26)			(0.01)			(7.05)			(0.26)
Power x 4: WP			0.01			0.00			4.01			0.11
			(0.29)			(0.02)			(9.18)			(0.35)
Power x 6: Council			-0.14			0.00			11.47			0.60
			(0.29)			(0.02)			(11.38)			(0.47)
AIC	427.80	434.21	441.51	426.04	432.36	440.11	426.52	432.69	439.56	424.63	430.77	436.77
BIC	435.73	457.99	481.15	433.97	456.14	479.74	434.44	456.47	479.19	432.55	454.55	476.41
Log Likelihood	-211.90	-211.11	-210.76	-211.02	-210.18	-210.05	-211.26	-210.35	-209.78	-210.31	-209.38	-208.39
Num. obs.	389	389	389	389	389	389	389	389	389	389	389	389

Note: **p < 0.01, *p < 0.05. The dependent variable is bargaining success. Stage dummies and their interactions allow for varying intercepts and slopes.

Table A5b Bivariate logistic regressions of bargaining success and support group power variables

	Outside option value (max.)			Parliamentary control (max.)		
	Model 13	**Model 14**	**Model 15**	**Model 16**	**Model 17**	**Model 18**
Intercept	-1.09**	-1.18**	-1.23**	-1.09**	-1.23**	-1.28**
	(0.12)	(0.32)	(0.33)	(0.12)	(0.32)	(0.33)
Support group power	0.01	0.01	-0.00	0.48*	0.50*	0.97
	(0.00)	(0.00)	(0.01)	(0.22)	(0.22)	(0.67)
Negotiation stages						
2: WP 28-03-2006		0.11	0.16		0.14	0.20
		(0.37)	(0.38)		(0.37)	(0.38)
3: WP 04-05-2006		0.13	0.12		0.22	0.28
		(0.39)	(0.40)		(0.38)	(0.40)
4: WP 30-05-2006		-0.21	-0.36		-0.18	-0.30
		(0.49)	(0.55)		(0.49)	(0.57)
6: Council 27-06-2006		0.55	0.53		0.63	0.68
		(0.57)	(0.60)		(0.57)	(0.58)
Interaction terms						
Power x 2: WP			0.01			-0.62
			(0.01)			(0.75)
Power x 3: WP			0.01			-0.57
			(0.01)			(0.79)
Power x 4: WP			0.02			0.17
			(0.02)			(1.09)
Power x 6: Council			-0.01			-0.65
			(0.02)			(1.02)
AIC	441.74	448.03	450.14	440.46	446.33	452.89
BIC	449.66	471.81	489.78	448.38	470.11	492.52
Log Likelihood	-218.87	-218.02	-215.07	-218.23	-217.17	-216.44
Num. obs.	389	389	389	389	389	389

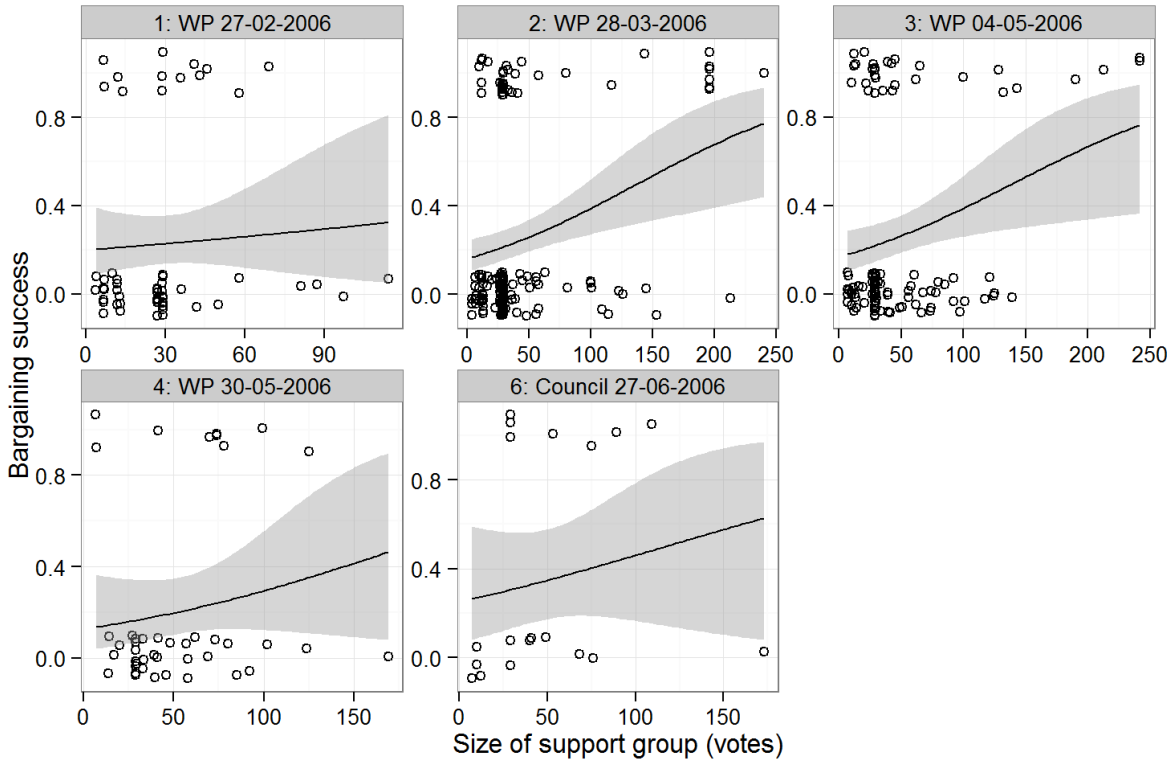
Note: **p < 0.01, *p < 0.05. The dependent variable is bargaining success. Stage dummies and their interactions allow for varying intercepts and slopes.

Table A6 Multivariate logistic regressions of bargaining success and support group power variables

	Model 1	Model 2	Model 3	Model 4	Model 5	Model 6
Intercept	-1.54**	-1.76**	-1.87**	-1.94**	-1.52**	-1.68**
	(0.46)	(0.45)	(0.45)	(0.45)	(0.16)	(0.19)
Max parliamentary control	0.01	0.09	0.14	0.16		
	(0.26)	(0.25)	(0.24)	(0.24)		
Number of group members	0.16**				0.16**	
	(0.05)				(0.04)	
Combined voting weight		0.01**				
		(0.00)				
Combined population size			6.23**			
			(1.70)			
Combined economic size				0.26**		0.27**
				(0.07)		(0.06)
AIC	429.80	427.91	428.16	426.21	427.80	424.63
BIC	441.69	439.80	440.05	438.10	435.73	432.55
Log Likelihood	-211.90	-210.96	-211.08	-210.10	-211.90	-210.31
Num. obs.	389	389	389	389	389	389

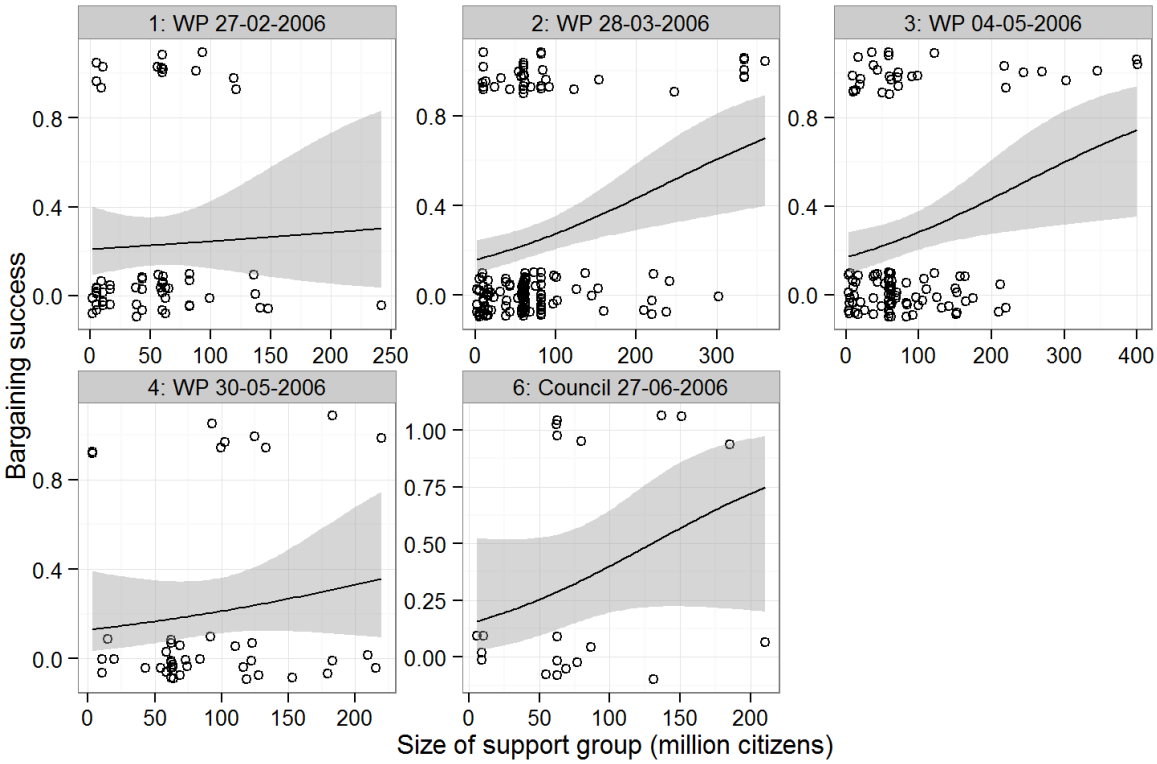
Note: **p < 0.01, *p < 0.05. The dependent variable is bargaining success.

Figure A4 Bargaining success as a function of the combined voting weight of countries supporting the position, by negotiation stage



Note: Predicted values are based on a bivariate logistic regression model with bargaining success as dependent variable and the combined voting weight of support group members as the independent variable. The model also includes dummy variables for the different negotiation stages, as well as their interactions with the support group size variable. The shaded area around the prediction curve indicates 95% confidence intervals. See Model 6 in Table A5a for full model results.

Figure A5 Bargaining success as a function of the combined population size of countries supporting the position, by negotiation stage



Note: Predicted values are based on a bivariate logistic regression model with bargaining success as dependent variable and the combined population size of support group members as the independent variable. The model also includes dummy variables for the different negotiation stages, as well as their interactions with the support group size variable. The shaded area around the prediction curve indicates 95% confidence intervals. See Model 9 in Table A5a for full model results.