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**Through the Needle's Eye. The Council Presidency and Legislative
Decision-Making in the European Union**

Doctoral thesis submitted to the Department of Government, the London School of Economics and Political Science, in part completion of the requirements for the PhD in Political Science.

Declaration of Original Work

I hereby declare that I am the sole author of this doctoral thesis. Scholarly work by other authors is acknowledged according to professional standards.

Andreas Warntjen

Enschede (NL), 28 November 2007

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Abstract

The thesis scrutinizes the effects of the Council Presidency on legislative decision-making in the European Union Council of Ministers. The rotating Council Presidency has been one of most prominent topics of discussion in the debate on institutional reform. So far, however, a comprehensive evaluation of the effects of the Presidency is missing.

The thesis addresses two questions:

1. Does the Council presidency have an impact on legislative activity in the Council?
2. Does the Council presidency gain disproportional benefits from the policies agreed upon during its term in office?

The methodology used in the thesis consists of an exploratory case study, secondary analysis of the Decision-making in the European Union (DEU) data set, and statistical analysis of an original data set covering legislative activity from 1984-2003. It presents evidence for an effect of the Presidency on both legislative activity and decision outcomes.

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Chapter One

Introduction

The European Union's (EU) Council of Ministers¹ is a key actor in European legislative decision-making. Inside the Council the rotating Council Presidency plays a central role chairing the discussions on EU legislation. Throughout the history of the European Union the reform of the Council has been a prominent topic. In recent discussions on a constitutional treaty, the Council Presidency was one of the most contentious issues (König, Warntjen et al. 2006). To understand the motivation behind these discussions and to reach a better understanding of legislative decision-making in the EU, we need to scrutinize the impact of the Presidency on the deliberations in the Council.

The Council pledged to increase its transparency in 1993 and the following decade saw a surge in scholarly work on the Council. Nevertheless, it still is a poorly understood legislative body despite its central position. The research presented in this thesis represents a step towards remedying this situation by scrutinizing the effect of the Council Presidency on legislative decision-making.

I differentiate between the impact of the Presidency on legislative activity and decision outcomes. The first refers to the timing of decisions and whether or not an agreement is reached in the Council while the latter refers to the outcome of this agreement.

¹ A note on terminology: Strictly speaking the study is concerned with legislation by the European Community (the first pillar of the Union) and the legislative meetings of the member state governments now take place in the Council of the European Union. Following convention, I use the terms 'European Union' and 'Council of Ministers' instead.

Thus, I address two questions in this thesis:

- Does the Council Presidency successfully push for (or stall) policy initiatives?
- Does the Council Presidency benefit disproportionately from decision outcomes?

The Swedish Presidency in 2001, for example, highlighted environmental policy as one of its main priorities in its legislative working programme. Sweden has traditionally very high standards of environmental protection. It is interested in pushing for European wide legislation that would establish a level playing field due to the regulatory competition it faces in the common market. However, in the limited time period of a Presidency, effectively limited to an inherited agenda and burdened with a large number of responsibilities, Sweden might not succeed in pushing for its legislative priorities.

The French government in 2000 is often credited with using the office of the Presidency of the European Council to make disproportionate gains in the Nice treaty negotiations. Procedural advantages and superior information allow the member state holding the Presidency to benefit more than it ordinarily would from bargaining in the Council. Again, the limited time period of the Presidency and the need to reach consensus might limit the ability of the member state holding the Presidency to manipulate outcomes according to its national preferences. Furthermore, the Presidency effect might exist for the summits of heads of governments and treaty reform but not in everyday legislative decision-making.

Although the potential influence of the Presidency on EU legislation has often been noted, the literature on its effects is still in its infancy. Only recently has a comprehensive theory of the effect of the Presidency been put forward. There are only very few empirical studies on this topic. Hence, my focus is on clarifying the theoretical arguments and establishing whether or not a Presidency effect exists. I argue that the Council Presidency influences legislative activity according to its national priorities (Hypothesis 1) and disproportionately benefits from decision outcomes (Hypothesis 2). Only after it has been established if and to which effect the Presidency influences EU legislative decision-making can we study the direct causal links in more detail. The aim of this thesis is therefore to provide a solid theoretical foundation and establish empirically whether or not the Presidency matters in EU legislative decision-making.

The theoretical main points of departure are the rational choice literature on leadership and the neo-institutionalist literature on EU legislation. The empirical parts consist of qualitative interviews, an exploratory case study, a statistical analysis of an original data set on legislative activity, and a secondary statistical analysis of a data set on decision outcomes. The study reveals that the Presidency does indeed have an influence on both legislative activity and decision outcomes.

My general point of departure for the impact on legislative activity is the literature on leadership. In political interactions, situations are ubiquitous where interests in a collective decision collide, but are impaired by the lack of a formal hierarchy. A central office of leadership benefits all participants by providing coordination and focal points for decision outcomes. However, granting special powers to individual actors raises the possibility of its abuse of power (Fiorina and Shepsle 1989; Calvert 1992; Miller 1992).

The Council Presidency can be conceptualized as a leadership office which provides the resources necessary to reach mutually beneficial policy outcomes. In doing so, however, it will promote and stall issues according to its own priorities and might succeed in seeking disproportionate gains. To prevent or at least limit this effect, the member states granted only limited powers to the Presidency. The Presidency is steering but not dominating legislative decision-making in the Council.

With regard to the impact on decision outcomes, my research derives its main theoretical impetus from a recent development in rational choice institutionalism. The institutionalist turn in political science has revitalized the scholarly debate on the setting in which political decisions are made. A prominent field for rational choice institutionalism has been legislative decision-making (Shepsle 1979; Shepsle and Weingast 1987; Krehbiel 1988; Krehbiel 1991; Shepsle 1995; Krehbiel 1996; Krehbiel 1998). Most of these studies are based on the concept of agenda-setting power (Romer and Rosenthal 1978; Tsebelis 2002), i.e. one actor has a monopoly of legislative initiative. This is a very strict requirement where one actor has a strong institutional advantage. The Council, however, is a weakly institutionalized setting in which no actor enjoys strong institutional powers. Tsebelis (1994) has adopted a broader definition of agenda-setting power, where other actors have the right to make amendments although these are costly. A similar setting is modelled by the concept of proposal power where actors have different probabilities of being recognized (Baron and Ferejohn 1989; Baron and Ferejohn 1989). The Council Presidency offers a fascinating setting to study the workings of this ‘first-mover advantage’ (Brams 2003) in an institutionally weak environment. As I will argue in chapter 4 (and Warntjen forthcoming), proposal power captures the procedural prerogatives of the Presidency better than agenda-setting power. In my discussion I also relate this to the general debate on power, in particular to the

question of its sources, e.g. information, rights, or resources (Morris 1987; Dowding 1991; Knight 1992).

My research also builds on the literature on EU legislative decision-making and advances our knowledge on the intra-institutional effect of the Council Presidency. The literature on the European Union's system of decision-making has primarily focused on its inter-institutional aspects (e.g., Steunenberg 1994; Crombez 1996; Tsebelis and Garrett 2000; Franchino 2006), where the legislative bodies are often perceived as unitary actors (Hörl, Warntjen et al. 2005). More recently, however, increasing attention has been paid to the intra-institutional aspects of the EU legislative process, particularly in the European Parliament (Bowler and Farrell 1995; Hix 2002; Whitaker 2002; Hix, Noury et al. 2004) but also in the Council (Mattila and Lane 2001; Franchino and Rahming 2003; Tallberg 2003; Mattila 2004). This coincides with a shift from (formal-analytical) theorizing to systematic empirical studies. My research will contribute to this movement by studying empirically the effect of the Council Presidency on legislative decision-making inside the Council.

In the EU literature there is broad agreement that the Council Presidency potentially provides the member state that is holding it with an opportunity to influence the decision-making process, particularly its pace and outcome (Wallace 1985; Kirchner 1992: 80 and 86; Hayes-Renshaw and Wallace 1997; Schout 1998; Dinan 1999: 241; Hix 1999: 66; Peterson and Bomberg 1999: 34-5; Westlake 1999: 46-7 and 63; Sherrington 2000: 41; Tallberg 2003; Tallberg 2004; Tallberg 2006). However, most of these studies are ambiguous with regard to their overall assessment of the effect of the Council Presidency. They list both arguments for and against an impact of the Presidency, without deriving clear-cut predictions. Furthermore, they offer little if any

empirical evidence. Thus, so far our knowledge about the effects of the leadership function on legislative decisions reached in the Council is severely limited.

The most comprehensive account of the Presidency so far is provided by Tallberg (2003; Tallberg 2004; Tallberg 2006). While it represents a major advance on earlier work, it still suffers from conceptual problems at a theoretical level (Warntjen forthcoming). As I will argue in my theory chapter (chapter 4), Tallberg oversimplified the impact of the Council Presidency by assuming that it enjoys agenda-setting power. Instead, it enjoys the more limited proposal power as it cannot prevent alternative proposals to be floated by other member states. The member states have been careful to grant the office of the Presidency sufficient powers to reap the benefits of coordination, but refrained from providing it with far-reaching powers such as agenda-setting. Consequently, member states do not engage in a grand vote trading scheme where the acquiescence of member states in the wide powers of the Presidency is ensured by their anticipation of the gains made during their time at the helm. The long intervals during successive Presidencies of a member state, particularly after the Eastern enlargement, make this grand scheme unsustainable. Tallberg bases his account of the powers of the Presidency on two different strands of the political science literature, as I will explain in chapter 4. My theoretical account solidly rests on rational choice institutionalism to avoid ambiguity and inconsistency.

The empirical part of Tallberg's work on the effect of the Presidency on EU legislation is also limited in two respects. Firstly, it consists of a few illustrative examples, many of which refer to decisions by the European Council, which operates in a different institutional setting than the Council of Ministers. Secondly, not all confounding factors are systematically and comprehensively measured and taken into account. As I will

show in my theory chapter, the preference configuration and the applicable voting threshold are important factors that might obscure a Presidency effect in the empirical analysis. Tallberg's prime example of Presidency influence on legislative decision-making (end-of-life vehicles directive) is based on press reports (Tallberg 2006: 103-6) and cannot systematically measure the positions of all member states². In contrast, I derive a number of measurements for the main independent variable in my case study (chapter 5). Furthermore, in my statistical analysis on national priorities of the Presidency and legislative activity I cross-validate my measurement by comparing the results of two data sources (party manifesto data, Presidency speeches). In addition, both statistical studies include multivariate analysis to control for the effect of confounding factors such as the applicable voting threshold and the stance of other member states. Finally, my studies draw upon a much wider range of cases. The statistical analysis of the Presidency's effect on legislative activity is limited to environmental policy, but it does cover 35 Council Presidencies between 1984 and 2001. The data source for my secondary analysis of the Presidency's influence on decision outcomes is based on 66 proposals pending in 1999 and 2000. Thus, the time it covers is limited but it does include a wide range of policy fields and covers the involvement of all but two (of then fifteen) member states at the helm. I find that there is robust, substantial, and statistically significant effect of the Presidency on legislative activity (see also Warntjen 2007) and decision outcomes.

Practitioners often maintain that the insights based on formal models (or generally conclusions in the academic literature for that matter) are flawed, based on a misleading representation of the actual decision-making process (e.g., Corbett 2000). Formal models crucially rely on getting their assumptions right to truly capture the essence of

² The other example is the transparency directive and the Swedish Presidency, which is also based on interviews (Tallberg 2006: 151-6). However, the same point about the comprehensiveness of the measurement of relevant variables can be made.

political phenomena and for their conclusions to be applicable to real world political situations (Samuelson 1963; Mäki 2000; Steunenberg 2000; Hörl, Warntjen et al. 2005). A model that posits an informational asymmetry is only interesting for situations in which crucial information is indeed partially private. Conclusions based on a model that postulates far-reaching powers for one actor are not applicable to situations of equal decision-making prowess. To check that the assumptions on which my theory builds indeed represent the structural situation in the Council, I not only relied on the accounts in the existing literature but also carried out 32 interviews with practitioners and observers. In addition, I conducted an exploratory case study in order to provide a closer look at the workings of the Presidency. The interviews and case study complement the subsequent statistical analysis. Using different research tools allows us to cross-validate our findings (Lieberman 2005; Marks 2007).

The statistical analysis of legislative activity is based on procedural data that is provided by the official PRELEX data base. Although the data is available online, the Commission does not allow access to a format that can readily be included in statistical packages. To analyze the data I wrote several computer programmes. First the data had to be copied from the website. Subsequently the relevant information had to be extracted, coded, and re-formatted in order to be accessible for the statistical analysis. As more than 20,000 web pages provided the data basis, this could only be done automatically in a computer-aided way.

The thesis is structured as follows: The first part provides some background and presents the theoretical considerations, the second part discusses my empirical analysis. The next chapter (2) describes the discussions revolving around the rotating Council Presidency at the Convention on the Future of Europe. The different preferences with

regard to the Council Presidency are discussed and the prominence of the topic is highlighted. The chapter points out the controversial nature of this institutional feature. Chapter 3 provides a brief description of decision-making in the Council of Ministers and an overview of the relevant literature. It describes the role of the Council in the legislative procedures and discusses the institutional setting of the Council. Decision-making in the Council is governed by its voting system, a horizontal and vertical division of labour, and the Council Presidency. The chapter summarizes the relevant literature, emphasizing the difficulty in passing legislation in the Council due to high voting thresholds and the fragmentation of decision-making. The literature on the Council Presidency is explored in more detail and links between the various institutional features of the Council are highlighted. The Presidency can potentially help to overcome the obstacles of reaching agreement in the Council. However, whether or not it does have an effect is under dispute. Many scholars have observed the potential of the Presidency to influence decision-making, particularly its pace. However, the countervailing forces are also noted. Most scholars do not offer a clear overall assessment of the effect of the Presidency and only very little empirical evidence has been offered in this respect so far. With regard to the Presidency's influence on decision outcomes, all theoretically possible positions have been put forward. Some argue that it does have an influence, some that it does not, while others even maintain the member state holding the Presidency has to make extra-ordinary concessions during its time in office. I discuss the various positions and the empirical literature which is just emerging on this aspect. Chapter 4 presents my theory of the leadership function of the Council Presidency. After discussing the interest a country has in EU legislation, the potential to influence a) the legislative agenda and b) policy outcomes while holding the Presidency are scrutinized. I argue that the Presidency can use its central position in the Council to prioritize legislation according to the salience it attaches to different topics.

Furthermore, it can influence decision outcomes because of informational asymmetries and its proposal power. Confounding factors are the voting threshold and the position (or salience) of other Council members.

The second part of the thesis tests the two hypotheses put forward in the first part. It presents empirical evidence with respect to the effect of the Presidency on EU legislation. The focus is on establishing whether or not there is evidence for a Presidency effect when we take confounding factors into account. Chapter 5 presents an exploratory case study of the ability of the Council Presidency to push for legislation that is salient to it. Besides emphasizing a certain proposal, a Council Presidency can spend resources on finding compromise solutions and disaggregate a proposal to facilitate agreement on parts of it. The case study relates to the regulation of occupational health and safety in the late 1990s. I also discuss the outcomes of the decision, focusing on the directive on noise. The case study suggests that there is indeed an effect of the Council Presidency. Chapter 6 presents statistical evidence regarding the impact of the salience a Council Presidency attaches to the field of environment on the adoption rate of environmental proposals. The time period covered is 1984-2001, including 35 Council Presidencies. The analysis relies on an original data set. Using the data set of the 'Decision-making in the European Union' (DEU) project, the effect of the Council Presidency's proposal prerogative and informational advantages in the Council's negotiations are investigated empirically in chapter 7. The measurement of power is discussed in detail. Two complementary research and measurement designs are used in this extensive study of the Presidency's influence on decision outcomes. The empirical studies show that the Presidency does influence both legislative activity and decision outcomes. In my conclusion (chapter 8), I discuss the findings and their relevance to the ongoing discussions on institutional reform. I also identify the limits of this study and point out avenues for further research.

Chapter Two

The Debate on Institutional Reform at the Convention

2.1. Introduction

The rotating Council Presidency has been one of the most prominent topics in the recent debates on institutional reform. This chapter describes the discussions on the Council Presidency in the Convention on the Future of Europe. If the Presidency offers leverage on EU legislation then its form should be subject to considerable debate. The aim of the chapter is to demonstrate that participants indeed considered the Presidency to be a crucial institutional feature and to describe the various positions on the issue of its reform. Representatives from smaller member states were vigorously opposed to a more permanent Presidency, whereas the big member states advocated abolishing the principle of equal rotation. Arguably, this is because both sides recognize the impact the Presidency can have on EU legislation. Representatives from smaller member states were afraid that an elected, long-term Presidency would shift the balance of power in the Union.

The next section provides some background on the discussions of the Convention on the Future of Europe. Section 3 describes the various positions taken in the initial discussion in the Convention. Section 4 discusses the endgame of the Convention and the results of the subsequent intergovernmental conferences.

2.2. Impetus for Reform

The discussions on a new European treaty in the Convention were held against the background of growing consensus that the Union faced another bout of 'Eurosclerosis'. Following the treaty reform at Amsterdam (1997) and in the run-up to the IGC at Nice in December 2000, discontent with the institutional development of the Union was widely felt. Although the EU had seen a series of reforms starting with the Single European Act (SEA) in the last decades, a common perception was that the Union was plagued by problems caused by an insufficient institutional structure. The upcoming Eastern enlargement, nearly doubling membership, increased the pressure for reform. The intergovernmental conference on the Amsterdam treaty (1997) had not completed its agenda, leaving several 'left-overs' to be discussed at Nice. Although the Amsterdam treaty made changes to the institutional setting to strengthen legitimacy and efficiency, dark clouds were brewing over Brussels at the beginning of the new millennium. The participation in elections to the European Parliament declined, as did overall support for Europe, and European projects had suffered a series of defeats in national referenda.

It was against this background that the German foreign minister (re-)launched the debate on the future of Europe. Pretending to speak only in a private capacity, Fischer called for further institutional reform:

'Enlargement will make a fundamental overhaul of the European institutions inevitable... How will European Council take place with thirty heads of state and government? Thirty Presidencies? ... How can it be avoided that the EU will become intransparent ... and acceptance of the EU by its citizens falls well below freezing point?' (Fischer 2000)

Two heads of government of large member states, France and the United Kingdom, responded to the vision of 'Citizen Fischer'. The French President Jacques Chirac spoke at the lower chamber of the German federal parliament (Chirac 2000). Just like Fischer he identified the upcoming enlargement as an impetus for change. After characterising European integration as a success story, Chirac outlined four institutional changes to reform the 'less than perfect' institutions of the Union. Chirac highlighted the importance of adopting the decision-making rules in view of enlargement. The British Prime Minister Tony Blair (2000) addressed the institutional reforms necessitated by 'EU's greatest challenge', enlargement, in Warsaw. In his proposals for political reform, Blair stressed the importance of a clear and consistent legislative agenda. The European Council should lay out annual work programmes that have been drawn based on a proposal by the President of the Commission, who is a member of the European Council. Team presidencies and elected chairs of individual Councils would ensure greater continuity. The rising debate on institutional (if not constitutional) reform set the expectations high for the intergovernmental conference in Nice, although Chirac had laid out their visions as tasks to be tackled after the IGC. But even with respect to the modest task of wrapping up the Amsterdam left-overs, Nice proved to be a disappointment to most. Nice most likely left the public only with the image of governments haggling over obscure voting schemes. Tony Blair summed up a common feeling: 'As far as Europe is concerned, we can not do business like this in the future' (cited in Norman 2005: 16). Implicitly, the heads of governments acknowledged the failure of the Nice reforms to prepare the Union for enlargement in the Declaration on the Future of the Union, which was adopted at the Nice summit. Although it stated that with the ratification of the Nice treaty the Union 'will have completed the institutional changes necessary for the accession of new member states', it nevertheless called for a

‘deeper and wider debate about the future development of the European Union’. The European Council meeting in Laeken in December 2001 was charged to present initiatives to continue this process of discussions about institutional reform.

Before the Laeken summit, the Swedish Presidency concluded the meeting in Gothenburg by pointing to the need for additional reform of the Council’s structures to ‘ensure an effective Council, based on better preparation of Council meetings, effective coordination between different Council formations and more efficient working methods after enlargements’ (Presidency 2001). The European Parliament (2001) also listed the reform of the Council as a prominent issue to be tackled in its resolution on the constitutional process and the future of the Union ‘the Union institutions are to operate more democratically and more effectively’. The Laeken Declaration which was adopted in December 2001 echoed these concerns. In particular, it put a question mark behind the current organization of Council formations working under the leadership of a rotating Presidency. A Convention on the Future was to make suggestions on institutional reform. The Convention was to be composed of representatives of member state governments, national parliamentarians and representatives of the European Parliament and the Commission. Thus, for the first time, national parliamentarians were directly involved in the institutional reform of the Union. As there were two per country compared to only one governmental representative, they in fact formed the largest group in the Convention. Nevertheless, the governments retained the final word as the Convention would only deliver a proposal subject to agreement on an intergovernmental conference and subsequent ratification. The access candidate countries would also be involved in the debate, without ‘however, being able to prevent any consensus which may emerge among the Member States’. The former French president Giscard d’Estaing was appointed as the Chairman of the Convention, with former Italian prime minister

Amato and former Belgian prime minister Dehaene serving as Vice-Chairmen (König, Warntjen et al. 2006).

The European Council asked the Convention to point out within a year different options, with indications of the support they had gained, or a list of recommendations if consensus was possible, so that these could be taken up at the European Council.

2.3. The Initial Discussions on the Council Presidency

The discussion on institutional questions was only taken up at a late stage in the Convention. Furthermore, the eleven working groups did not cover all of the institutional questions raised by the Laeken declaration and the preceding discussion. Some of the deliberations in the working groups nevertheless touched upon these issues. The working group on the role of National Parliaments proposed to open all parts of legislative deliberations to the public (CONV 352/02), some contributions had furthermore envisaged a single Legislative Council, which would bundle all legislative activities of the different Council formations. Working Group VII on external action discussed the separation of the General Affairs Council into one formation responsible for external action and one for the co-ordination of the Council's business across its specialized formations (CONV 459/02). Presumably, Giscard D'Estaing wanted to keep these contentious issues off the agenda to avoid early schisms in the Convention and keep a tight leash on his conventionnels (Norman 2005: 108; Tsebelis and Proksch 2007). Thus, although the working groups were supposed to provide the 'building blocks for the final product' (Amato cited in Norman 2005: 53), only two out of eleven had reported the results of their deliberations before the Praesidium moved first by unveiling a 'skeleton' constitution on 28 October 2002 (Norman 2005: 52-3). The

skeleton (CONV 369/02) primarily provided a structure of a future constitution, but it also broached some substantial suggestions such as the office of a Presidency of the Union (Art. 15bis and 17bis).

The question of the Council Presidency had already attracted attention prior to its first discussion in the plenary of the Convention. The government representatives of the Benelux countries submitted a position paper on a 'balanced institutional framework for an enlarged, more effective and more transparent Union' in December 2002. The Benelux paper followed speeches by the Spanish Prime Minister Aznar, British Prime Minister Blair and French President Chirac in which they had advocated a stronger Council Presidency (Norman 2005: 15 and 111). The Benelux countries acceded that in view of enlargement, reform of the Council was necessary to ensure its effectiveness and continuity (CONV457/02). 'The status quo is no longer a viable option.' The proposal for a long-term Presidency was, however, not regarded as a possible solution. The principle of 'equal treatment' had to be safe-guarded. Instead, the executive and legislative function of the Council had to be separated. Thus, the Commission should chair the General Affairs and External Action Councils. Rotation should be kept for the European Council and the other sectoral Council formations. 'The Benelux will in any case never accept a President elected from outside Council.' Thus, the Benelux countries opposed a change to the rotating six-month Presidency for most Council formations.

The first debate on institutional reform in the plenary took place on 20 and 21 January 2003 at the thirteenth session. To focus the discussion on institutional questions, the Praesidium circulated a reflection paper on the functioning of the institutions ten days before the plenary session (CONV 477/03). It covers the European Parliament, the

Council, the Commission, the Court and the European Council. With regard to the Council, the structure of Council formations, the Presidency, and the voting weights were discussed. It noted the suggestions for a Legislative Council and a solely coordinating General Affairs Council, with a separate Council formation responsible for External Action. Turning to the rotating Presidency, the reflection paper noted the need of a reform to ‘address the two requirements of stability and adequate representation of all Member States’. It did not advance any concrete proposals, but pointed out the advantages and disadvantages of a rotating Presidency:

‘The Council, unlike the Commission and the Parliament, has always had only short term, part-time Presidency arrangements. The rotating system has had the advantage of spreading awareness of the Union, and creating a sense of ownership in Member States. On the other hand, it is difficult for Member States’ ministers to cope with the ever-increasing range of complex Presidency tasks, and the lack of continuity will be even more damaging when the period between Presidencies, after enlargement, exceeds twelve years.’

In its last section, the reflection paper discussed the role of the Presidency in the European Council. According to the Treaty, the European Council was to provide the Union with ‘impetus for its development’ and to define general political guidelines. The reflection paper stated that instead the European Council, bringing together the heads of government, had become an inefficient final resort for decisions which were supposed to be taken by the Council of Ministers.

‘Crucial initiatives have been taken by the European Council... However, the European Council seems much more [like] a forum in which successive Presidencies seek agreement on their preferred objectives and priorities for future Union policy, and attempt to settle dossiers which have become blocked. But this is too difficult, given current decision-taking procedures (no QMV, even for decisions where QMV applies at the level of the Council).’

Again, the reflection paper did not put forward any suggestions, but only mentioned the operational measures adopted in Seville. The European Council meeting in Seville in 2002 had adopted multi-annual programmes for successive Council Presidencies and recommended measures to keep Council discussions focused. Nevertheless, the wording of the reflection paper implied the need for a solution which would bring more consistency and continuity into the work of the European Council (and consequently to the work of the Council of Ministers). One suggestion, that would satisfy these criteria, was put forward in a Franco-German initiative, which dominated the discussions in the Convention at its plenary session on 20 and 21 January. The Franco-German contribution concerning the Union’s institutional architecture by the French President and the German Chancellor was submitted to the Convention by the foreign ministers of the two states, and was circulated to the conventionals a few days prior to the plenary session (CONV 489/03). It suggested a permanent chair, which would be elected by the European Council with qualified majority, to strengthen continuity and stability. The term of office would be either five years or 2 ½ years with the possibility of a second term in office. Besides preparing and chairing the European Council meetings and monitoring the implementation of its acts, the chair would also represent the Union externally, without prejudice to the Commission and the operational function of the European foreign minister. As Fischer noted in his remarks in the plenary session, this

double heading (*Doppelspitze*) could cause problems. But, as de Villepin, pointed out, it would remove a source of instability in the Union's priorities (*un facteur d'instabilité dans les priorités de l'Union*) and increase its clarity (*visibilité*) for its citizens and the world. The proposals for the chair of the Council of Minister varied by formation. De Villepin stressed that some of the Council formations could retain the six-monthly rotation to which some were attached in light of the equality of member states. The General Affairs Council would be headed by a General-Secretary and the Foreign Affairs Council by the European foreign minister. The Council formations on Economics and Finance and on Justice and Internal Affairs as well as the Euro-group would be headed by a chair, elected from its members for 2 ½ years. The chair of the other Council formations will be designed to give a maximum of participation on an equal basis to all member states. In its legislative function the Council is to deliberate in public, generally in co-decision and by qualified majority.

The suggestion for a permanent chair of the European Council was in for some strong criticisms by a majority of speakers. In particular, representatives from small member states argued for a continuation of the rotating Presidency. The representative from the Lithuanian parliament, Mr Algirdas Gričius, pointed to the dilemma behind the construction of an elected Presidency of the European Council. Such an office would only make sense if extensive powers were vested into it but then there would be the risk of tensions with the overlapping competences of the Commission and its President. Several conventionals pointed to these tensions between the Commission President and the President of the European Council, giving rise, in the words of the British parliamentarian Heathcoat-Armory, to a 'Europe of presidents'. The Swedish parliamentarian Göran Lenmarker also criticized the creation of a new Presidency: 'why get rid of the three pillars if they are to be replaced by twin towers?' Another

frequent criticism concerned the abolishment of the rotating Presidency which was termed a 'symbol of equality between the Member States' by the representative of the Finnish government, Mrs. Teija Tiilikainen. As several speakers pointed out, it also gave visibility to the European Union at the national level. However, the current system could be improved by a more efficient distribution of the workload. Hannes Farnleitner, the Austrian governmental representative, pointed to other measures to improve the Council's continuity such as multiannual working programmes. One speaker suggested that the Presidency had increased in complexity as the Council had taken over tasks of the Commission. In her contribution, Mrs. Hanja Maij-Weggen summarized the discussion by stating that of the 91 speakers on the subject, 64 were against the proposal, 15 had serious reservations about it and only 12 were in favour of it. In their contributions, several conventionals made alternative suggestions. These included a team presidency, an elected Presidency for the European Council, the General Affairs Council and COREPER while retaining rotation for all other formations, and the chairmanship of the General Affairs Council by the Commission President.

Largely opposing the Franco-German suggestions 16 government representatives of smaller countries³ laid out their perspective on institutional questions at the end of March 2003 (CONV 646/03). Entitled 'reforming the institutions' it mainly called for no institutional reform to take place. The community method and the Union's institutional balance should be preserved. New institutions such as the European Council Chair were rejected. The equality of member states was stressed. Consequently, the current rotation of the Council Presidency was seen 'as the predominant aspect of a new system'. Although the paper acknowledged several instruments to enhance the

³ Austria, Bulgaria, Cyprus, Czech Republic, Denmark, Estonia, Finland, Hungary, Ireland, Latvia, Lithuania, Malta, Portugal, Slovakia, Slovenia, Sweden

coherence of the system, which was needed in a larger Union, the paper set out to emphasize the advantages of the rotating presidency:

‘As currently organised, [the Presidency] facilitates a coherent and co-ordinated approach to all aspects of the Council’s activities, both vertically within sectors and horizontally across them. It allows for the regular infusion of fresh energy and new perspectives. It ensures political control of the Council. Its automaticity avoids a diversion of energies into campaigning for election or appointment to the chairs of Council formations. It is a symbol of the equality of the Member States and is a bridge between their peoples and the Union.’

Thus, the rotating Presidency should be kept in particular in the European Council, the General Affairs Council, and COREPER⁴. With reference to the Seville Council, the use of (multi-)annual programmes and coordination between Presidencies to facilitate cohesiveness was noted. Instead of a permanent Presidency a reform of the High Representative into a full-time Secretary-General to ensure continuity of the Council’s work was sought.

The paper by the ‘group of 16’ explicitly referred to a contribution by the Benelux countries (CONV 457/02) discussed earlier which had opposed changes to the rotating Presidency. It was, however, not signed by the Benelux representatives. The prime minister and foreign minister of the Benelux countries and their colleagues from Austria, Finland, Ireland and Portugal met on 1 April in Luxembourg to discuss institutional issues. Their host, the Luxembourg prime minister Jean-Claude Juncker, summarized the position of the ‘seven dwarfs’. They rejected the idea of a long-term

⁴ Two of the ‘Group of 16’, Denmark and Sweden, ‘have expressed their willingness to examine the idea of an elected chair of the European Council in light of the need for improved coordination.’ (see also Norman 2005: 151)

European Council President, which would push the Commission President into the second row. The Commission should keep ‘all its rights and all its potential’ (Norman 2005: 152).

Giscard D’Estaing reported on the progress of the Convention to the informal Athens European Council on 16 April 2003. After presenting the answers the Convention had given to some of the questions raised by the Laeken declaration, he addressed five questions to the assembled heads of government. The first question concerned the possibility of continuity in the work of the European Council and other Council formations in an enlarged Union. 18 of the 25 (future) member states, meeting parallel to the Athens Council, rejected the idea of a permanent president of the European Council. Besides the ‘seven dwarfs’ all accession countries except the larger ones (Poland and Turkey) were of this opinion (Euractiv, 25 April 2003; Norman 2005: 152). The press release by the Greek Presidency also referred to a majority of member states who wished to see ‘a strengthened Commission and European Parliament and a simplification of existing structures, rather than increase in the number and complexity of European institutions’. In the press conference following the European Council, Giscard D’Estaing – after noting the divergent opinions on most of the institutional questions he had brought up - highlighted the ‘equality of rights of citizens’. Although less talked about it was equally important as the equality of member states to which Council members had alluded. Revolutions have been fought on the issue of equality of rights of citizens and thus now ‘all Europeans are entitled to carry the same weight in the decision-taking process in the Union. So in the Constitution we want to have something enshrining the equality of rights of the citizens of the Union’. This somewhat melodramatic introduction allowed him to put the majority of member states, who were opposed to a permanent Presidency, into perspective. In his view, a majority of the

European population (as represented by their governments) favoured 'a somewhat more stable presidency'. Asked which the most difficult issues were at this stage of the Convention deliberation, Giscard pointed to the question of the Council Presidency and the composition of the Commission. Giscard D'Estaing promised that the Convention would deliver its recommendation as planned to the Thessaloniki European Council on 20 June 2003.

On the plenary session of 24 April, the Praesidium presented its first draft articles on the institutional set-up (CONV 691/03). In his introduction, Giscard D'Estaing pointed out that the Convention 'was undoubtedly reaching the most difficult stage in its work'. Article 16a set out the European Council Chair, to be elected by the European Council using qualified majority for a term of two and a half years, renewable once. The person elected must be, or have been for at least two years, a member of the European Council. This restricted the eligible persons to (former) heads of government. The European Council chair shall 'endeavour to facilitate cohesion and consensus with the European Council'. In addition, a board consisting of three Council members according to a system of equitable rotation may be established by the European Council. Council formations, besides the General Affairs Council and the configurations of a Legislative Council, a Foreign Affairs Council, an Economic and Financial Affairs Council, and a Council on Justice and Security, are established by the General Affairs Council (Art. 17a). Except for the Foreign Affairs Council, the Presidency of a Council can be taken by a member state for at least a year 'taking into account the European political and geographical balance and the diversity of all Member States'. This provision is subject to a consensual decision by the European Council (Art. 17a Para 7). The Foreign Affairs Council is to be chaired by the European Foreign Minister (Art. 17a Para 3).

The amendments put forward in the Convention in subsequent discussions with regard to the chair of the European Council concerned all aspects of this position: its function, appointment, and relationship to other institutions. The most far-reaching ones ranged from proposals for a Secretary-General, a permanent political figure ensuring continuity in the Council's work, alongside a Chairman of the European Council, who would fulfil more of a representative function on a rotating basis, as suggested by Robert McLennan (UK) to a directly elected head of the Union as suggested by Georgios Papandreou and Georgios Katiforis (Greece). Lord MacLennan also supported an amendment by Andrew Duff and others envisaging the Commission President to chair the European Council. This would have solved somewhat the problem of overlapping competencies between the President of the European Commission, the proposed Foreign Minister and the proposed President of the European Council, all of which were to represent the Union externally. The representatives of the Commission pointed out that this would make the institutional architecture even 'less transparent than today'. For this purpose some conventionals requested to delete the sentence mandating the European Council chair with the task of external representation (e.g., Kirkhope, Meyer) or proposed to add a statement that this shall be carried out without prejudice to the competences of the Commission President and the Foreign Minister (e.g., Christopherson, Fischer, Schlüter, Teufel). The British conventional Kirkhope went into the other direction by calling for the President of the Union to be the chair of the Foreign Affairs Council. A number of conventionals including the conservative group lead by Elmar Brok (Germany) and representatives from small countries rejected the notion of a long-term Presidency for the European Council and argued for the continued use of rotation. Most amendments simply requested to delete the whole article dealing with the European Council Chair. Several amendments deleted the requirement of the Chair being or having been for at least two years a member of the European Council. The Dutch conventional

Timmermans only deleted the latter part; in his view the Council Chair should be a current a member of the Council. Another contentious point was the proposed board, whose function was unclear to some conventionals (e.g., Danuta Hübner, Poland). Peter Hain (UK) proposed a team presidency instead, although the General Affairs Council should be chaired by the Chair of the European Council. Others were concerned about the equal representation of small, medium, and large countries. Adrian Severin (Romania) added language to the effect of this equality being a requirement for the selection. The Austrian conventional Einem envisaged a 5-member Praesidium whose members would be replaced every 30 months in alphabetical order. The mode of election (or appointment) was also the subject of some amendments. The Danish representatives proposed election by a two-thirds majority 'based on the principle of equality of member states' instead of qualified majority. Helle Thorning-Schmidt (Denmark) requested that the election of the Chair by the European Council would be subject to approval by the European Parliament. The French conventionals Haenel and Badinter opted for a term of office of five years, non-renewable.

The question of the Presidency was also prominent in the discussion on the Council of Ministers. The representatives of the Commission requested that all Council formations appoint from among its members a President for the period of one year, renewable, without the requirement of a decision by the European Council. Elmar Brok and others lowered the majority threshold for the decision in the European Council to elect a Council Chair to qualified majority, limiting his term of office to two and a half years and required him to be in the rank of minister. They also added language to the effect of allowing the Commission President and its Vice-Presidents to chair Council formations other than the Foreign Affairs Council. In his comments, Elmar Brok pointed out that several questions were still highly contested and noted a division between small and

large member states on the issue of a European Council President. Andrew Duff (UK), leader of the liberal caucus, and others explicitly envisaged the Commission President to chair the General Affairs Council, but excluded Commissioners from chairing the Legislative Council, which should be chaired by member states in a three-monthly rotation. The French alternate Floch envisaged the Commission President to chair the Legislative Council. Adrian Severin requested that the (newly established) Social and Economic Security Council would be chaired by the Commissioner for Employment and Social Affairs. The French delegate Beres suggested that all Council formations should be chaired by the respective Commissioner, with the exception of the Economics Council and the Eurogroup which would be chaired by a new European Economics and Social Affairs Minister.

Others departed more from the Praesidium approach to the Presidency by insisting on a system closer to the current practice of rotating presidencies. Danuta Hübner, for instance, and the Austrian representative Voggenhuber and others requested to delete the passage dealing with a more permanent Council Presidency. The same proposals were put forward by representatives from smaller candidate countries. A frequent suggestion involved team presidencies (e.g., Hain, Zielenic). It is not always clear if the amendments envisage each team member to chair all formations for a subperiod or if it would also be possible for team members to divide the chairmanship of Council formations during the team presidency. The Greek representatives, Papandreou and Katiforis, suggested a rotating team presidency for all Council formations, except for the External Action Council, lasting for one year. The order (and presumably the composition) was to be determined by the General Affairs Council. The Maltese representative, Serracino Inglott, added to this the provision of ensuring that each member of the team held the Presidency for at least six months. Several Scandinavian

representatives requested a provision that each team presidency ‘was to reflect satisfactorily the demographic and geographical range of all Member States of the Union.’ In her proposal, Maria Berger from Austria suggested a team presidency of at least one year consisting of five member states, which would decide among themselves how to split the chairing of the Council formations. A similar proposal is made by another conventionel (Oleksy), who, however, fixes the term of office at two years without specifying the number of countries comprising a team. Esko Helle from Finland argued that only a minister, responsible to his national parliament, could chair a Council. Thus, the Foreign Minister (as a member of the Commission) would not be chairing the Foreign Affairs Council. The same position was expressed by Jens-Peter Bonde (Denmark). Heathcoath-Armoury (UK) requested the establishment of a ‘rotating foreign minister’ to chair the Foreign Affairs Council.

In sum, after months of debate the Convention remained split on the question of the Presidency for the European Council and Council of Ministers. Inside and outside of the Convention, the governments of large member states (France, Germany, Great Britain, and Spain) pushed for a more permanent Presidency. Representatives from smaller member states, such as the ‘group of sixteen’ and the Benelux countries, opposed any changes to an equal representation of all member states, regardless of their size. As institutional matters had only been formally discussed towards the end of the (scheduled) duration of the Convention, pressures mounted to find a consensus.

2.4. Towards consensus

Before the plenary session on May 5, the conventionels had meetings with the triumvirate heading the Praesidium in its component parts. The European

parliamentarians accepted a permanent President of the European Council if the Commission President was elected by the European Parliament. This was also foreseen in the non-paper of the national parliamentarians. They added that the chair of the European Council would not develop into a separate executive and that rotation in the other Council formations should be maintained. Furthermore, the national parliamentarians supported the Legislative Council, which was to act in public. A willingness to compromise on the Praesidium proposal was less forthcoming from the governmental representatives, which as Giscard D'Estaing pointed out were only a minority in the Convention. The Greek alternate Katiforis chaired the meeting and conducted – against past practice and explicit preference of Giscard – a vote. He later reported that 18 governments had been opposed to a long-term Presidency, while only five were in favour. Only two votes were recorded for the Legislative Council (Norman 2005: 235-239).

In their plenary session on 15 and 16 May Giscard D'Estaing announced that a full draft constitution would be available by the end of the month. Turning to the amendments received on the institutional part, Giscard D'Estaing pointed out that several amendments embraced the status quo. 'Give Nice a chance' had become a motto at the plenary session. Giscard D'Estaing challenged this approach by referring to the Laeken mandate and recited some of the question raised by the declaration: 'What of the six-monthly rotation of the Presidency of the Council?' Nevertheless, several of the 90 speakers expressed their satisfaction with the outcome of Nice. Ambitious reform was not feasible in this situation. Other speakers followed the chairman in pointing to dissatisfaction with the institutional setting as agreed upon in Nice as the very reason for the existence of the Convention. In their general comments, some speakers called upon the Convention to respect certain principles such as the equality of member states.

That ‘the balance between small and large Member States, old and new Member States, must be guaranteed’ (Rupel) was the view of, amongst other representatives from smaller countries. This was countered by statements to leave behind divisions such as the distinction between small and large member states. Almost all speakers addressed the question of the Council Presidency. The Convention was split on the question of a permanent President of the European Council. In general, representatives from smaller member states supported the rotation system whereas as delegates from larger countries favoured a permanent Presidency. A significant number of speakers supported the Praesidium proposal, arguing that it would lead to a more efficient organization of the Council. It was also pointed out that currently the Council is the only institution that did not have a permanent chair. Another group expressed their wish to keep the current system of rotation, which complied with the principles of equality of member states and brought the Union closer to the citizens of the member states holding the Presidency during its term. A representative of a small candidate country, the Estonian parliamentarian Kelam, was highly critical of the proposal of the Praesidium: ‘it is rather superficial to create a super-President of the Union with a view to involving the public more closely in the work of the institutions.’ The French representative Duhamel tried to dispel fears that a permanent President would necessarily always come from a large member state. As already noted, several compromise proposals were made in the amendments which were now raised during the discussions. Andrew Duff, noting the potential for conflict between the Presidents of the European Council and the Commission, suggested an ‘evolution clause’ eventually leading to the merger of these two posts. The contributions in the plenary furthermore highlighted the issue of an overlap of competences between a President of the European Council and the Commission President as well as the Foreign Minister, asked for a clarification of his duties and challenged the democratic legitimacy of a President only elected by his peers.

The Greek proposal of a President elected directly by a uniform voting procedure spoke most directly to this point: 'if this post were to be created, the President should be elected by universal suffrage.' John Bruton (Ireland) argued that this might lead to a European demos. This view was also supported by one of the Commission representatives, Michael Barnier, who stated his conviction that 'one day Europe will need to place an individual at the head of the Union'. This day, however, had not come as 'the time is probably not yet ripe'. Most comments with regard to the Council of Ministers also focused on the question of keeping the system of rotation. Again, the Convention was split on this issue. A large number of speakers favoured maintaining the current system. In their view, the continuity of the Council's work could be guaranteed by multi-annual working programmes. Another suggestion in this regard was installing the Commission President as the Chair of the General Affairs Council.

A much more fundamental challenge to the Praesidium text was presented in a letter of nine governmental representatives⁵ (CONV 766/03). It called for keeping the Nice agreement on institutional matters, which although 'not perfect' had been reaffirmed at the Athens Council. Reopening the box of Nice would result in options being presented to the IGC, diminishing the influence of the Convention on the final text of the constitution. The latter was prompted by Spanish anxieties about losing the favourable distributions of voting weights agreed upon in Nice, but it could also be built upon the support of small and medium-sized countries organized in the 'group of 16' against a long-term Presidency of the Council and fears that small countries would not be represented in a reduced Commission (Norman 2005: 225-227).

⁵ Austria, Cyprus, Denmark, Ireland, Lithuania, Poland, Spain, Sweden, United Kingdom

In its revised text from 2 June the Praesidium enclosed several changes to its original proposal following the debates in the plenary (CONV 770/03). There had already been a revised draft text for Part I of the constitution on 26 May, which, however, did not contain any changes with regard to the institutions. On 27 May the third part of the constitution was also presented for the first time. It consisted of the provisions regarding the policies of the Union and the functioning of its institutions. To a large degree existing treaty provisions were simply reorganized. Changes primarily concerned the legislative procedure and the necessary majority to adopt a legislative act. Because of the state of discussions in the Convention, placeholders were inserted for several institutional provisions. This was also the case for the Council Presidency (Art. III-240). With regard to the European Council Chair, the following changes were made in the June draft:

- The requirement of the President of European Council to be or have been for at least two years a member of the European Council was dropped
- It was clarified that the President of the European Council was representing the Union externally only in his capacity as the chair of the Council and ‘without prejudice to the responsibilities of the President of the Commission and the Minister for Foreign Affairs’.
- The explicit mention of the requirement for the European Council to decide by consensus on the creation of a board was dropped, thus a more general stipulation (to the same effect) would be effective

The article on the Council formations, which also set out the extension of the Presidency to a one year term, was left effectively unchanged despite the heated discussion in the plenary. It only contained two changes, one of which was purely

editorial. One sentence was reworded with regard to the composition of the Legislative Council, to allow for several ministers to be present in the deliberations. As in the preceding article on the President of the European Council, the requirement of the European Council to decide 'by consensus' on the establishment of one year Presidencies was deleted as it was covered by a more general rule to the same effect. In view of the contentious nature of the proposals on the Council Presidency, however, the Praesidium had to present a further compromise on the Presidency of the Council of Ministers later in June (Kiljunen 2004: 138). The Presidency of the Council of Ministers, other than the Foreign Affairs Council, was to be held by member states 'on the basis of equal rotation'. Both national parliamentarians and, according to Katiforis, 18 member states backed the rotating Presidency (Norman 2005: 236-7).

The final draft of the Convention, adopted in June (CONV 850/03), established the office of President of the European Council. Member states would elect the President for two and a half years, renewable once, by qualified majority. The primary tasks of the Presidency are to chair and prepare the meetings of the European Council and to represent it externally (Art. 21). For the Council of Ministers, other than the Foreign Affairs Council, the system of rotation was kept, although the term of office was extended to at least one year. The proposed constitution stressed the 'equal' rotation 'taking into account the European political and geographical balance and the diversity of member states' (Art. 23).

On 18 June 2004 the member states agreed on the Treaty establishing a Constitution for Europe. The final treaty included one change with respect to the Presidency of the Council. Instead of laying down a minimum term in office of one year, it referred to a decision by the European Council on the exact conditions of the office. The European

Council's decision on this question was to be made by qualified majority. A decision drafted by the intergovernmental conference foresees team presidencies of three member states, each chairing all meetings for six months (Church and Phinnemore 2006: 109-10).

In June 2007, after a period of reflection following the rejection of the constitutional treaty in the referenda in France and the Netherlands, the European Council agreed to negotiate a 'reform treaty'. The new treaty would incorporate significant parts of the section on institutional reform in the constitutional treaty. In particular, the mandate for the intergovernmental conference contained a reference to the Presidency of the European Council and a six-monthly rotating Presidency of the Council.

2.5. Conclusion

At the beginning of the new century a growing consensus put institutional reform at the heart of debate on the future of the European Union. Successive treaty reforms in the 1990s and the results of the summit in Nice were deemed insufficient in the face of growing discontent of European citizens with the workings of the Union. The upcoming Eastern enlargement, nearly doubling the membership of the Union, lent further urgency to debates on the reform of the Union's institutions. The focal point of the discussion was the Convention on the Future of Europe, which took up the mandate to draft a constitutional treaty. One of the key issues in the heated debates was the Council Presidency. Several representatives from the big member states argued in favour of a stronger and more permanent institution at the helm of the Council. However, representatives of smaller member states vigorously opposed any infringements on equal representation in the leadership office. All conventionals did eventually agree to

the new office of an elected Presidency for the European Council and an extended term in office for the rotating Presidency of the Council of Ministers. The Council itself adopted this provision – in one of the very few changes to the proposal by the Convention - to keep the current provision of a six-monthly rotating Presidency, referring to team presidencies consisting of three member states. Thus, the constitutional treaty as adopted by the member states left the Presidency in the Council of Ministers virtually unchanged. These features are likely to be included in the reform treaty to be negotiated in 2007. This last minute change, the contentious debate preceding it, and the lacking ability to adopt far-reaching changes all point to the importance widely attributed to this topic.

The prominence of the topic at the debates on institutional reform in the Convention and in the intergovernmental conference raises the question of whether or not the Presidency makes any difference. If there is no Presidency effect on EU legislation and it is a purely administrative and symbolic office, the length to which opposing sides went to argue their case would be surprising. To understand whether or not the Presidency has an impact we need a theory of its role in legislative decision-making which is subsequently tested empirically. Both theory and empirical evidence to this effect are offered in the remainder of this thesis.

Chapter Three

Existing Accounts of Legislative Decision-making in the Council

3.1. Introduction

The Council of Ministers has for a very long time been vastly understudied, as scholars struggled to penetrate the wall of secrecy surrounding Council deliberations. Only in the last decade or so have systematic empirical studies on Council decision-making been conducted. The focus of earlier studies was on the role of the Council as a collective body in the legislative decision-making body. The voting system of weighted votes used under qualified majority also attracted attention. These strands of the literature have been (and remain) mostly theoretical. Thus, our knowledge on decision-making in the Council is still limited and unbalanced. To understand the potential impact of the Council Presidency on EU legislation we need to consider how decisions are reached in the Council and what role the Council has in legislative decision-making. This chapter provides an overview of the relevant literature. The various theoretical positions on the role of the Council Presidency and existing empirical evidence are discussed in detail.

From an institutional perspective on decision-making in the Council, three inter-locking features of the Council stand out: its voting system, its (horizontal and vertical) division of labour, and the leadership office of the Council Presidency. Decision-making in the Council is fragmented, preparatory bodies and specialized sectoral Councils carry out the brunt of deliberations. In order to be adopted in the Council, legislative proposals need to clear high voting thresholds once they have reached the appropriate level in the Council. The Council Presidency is charged with managing the flow of deliberation. To

ensure efficient decision-making despite the high hurdles of fragmented decision-making and high voting thresholds proponents of reform often looked to a stronger Presidency. It could use its central role to steer legislation through the needle's eye of the Council.

In the following (section 3.2.), I briefly discuss the role of the Council in legislative decision-making before I turn to intra-institutional aspects of the legislative process. I discuss the voting system (section 3.3.) and legislative organization (section 3.4.) of the Council. The focus, however, is on the Council Presidency. I briefly describe its development in section 3.5.1. Section 3.5.2. is devoted to an extensive discussion of the existing literature on the powers of the Presidency. I distinguish between the effect of the Presidency on legislative activity (3.5.2.1.) and decision outcomes (3.5.2.2.). Finally, I report the results of thirty-two interviews on the Council Presidency I held with practitioners in Brussels (3.5.3.).

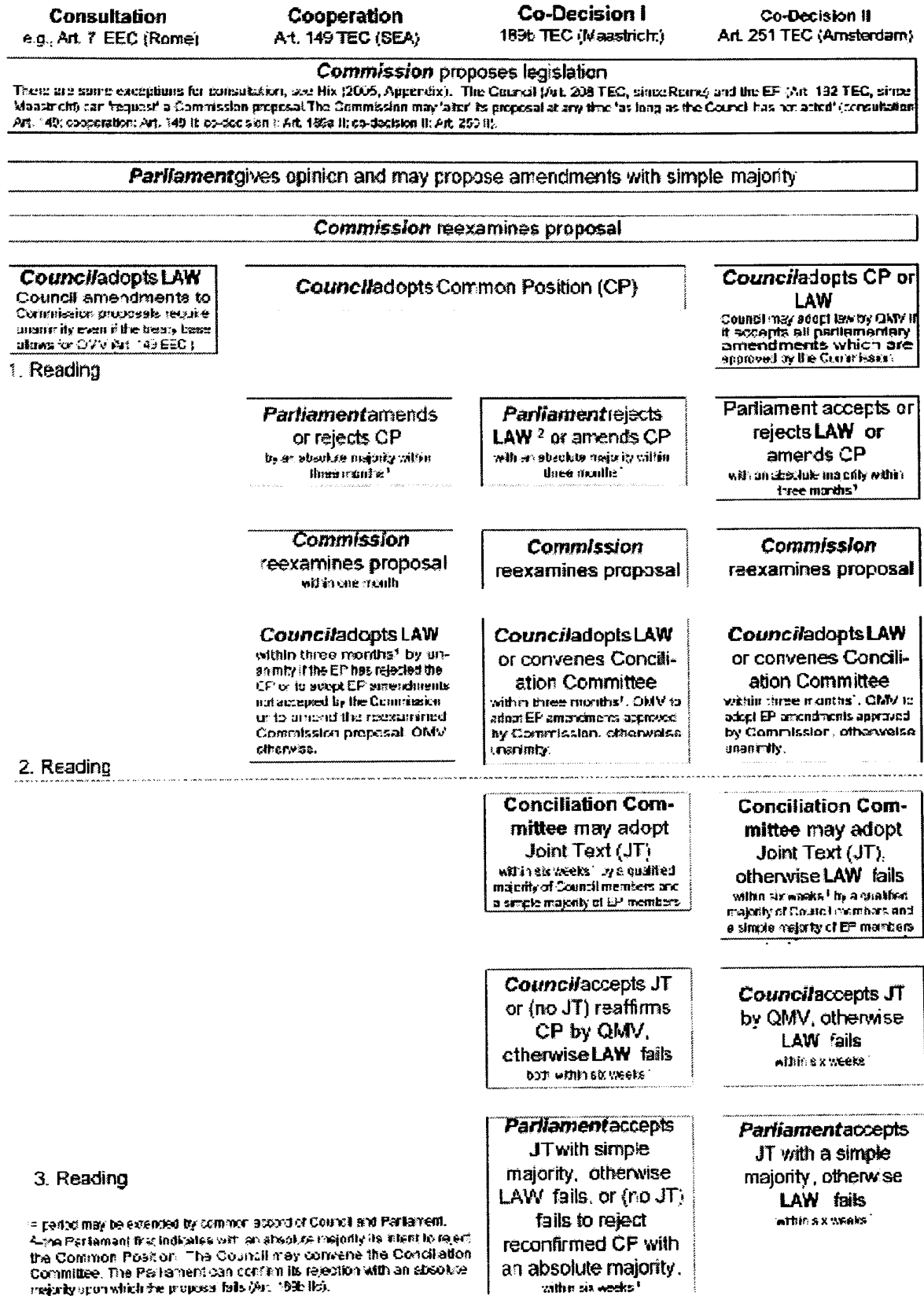
3.2. The Role of the Council in legislative decision-making

The Council is the needle's eye through which all EU legislation must pass (see Figure 3.1.). The overwhelming majority of EU legislation is (or was) passed by four procedures: the consultation, cooperation, and two versions of the codecision procedure. The oldest procedure (consultation) consists in essence of the Commission proposing and the Council deciding on legislation. The role of the European Parliament is limited to an advisory function. Successive treaty changes have introduced new legislative procedures (cooperation, codecision) which have increased the role of the European Parliament, moving the EU towards a bicameral system (Tsebelis and Garrett 2000). The first major change was the introduction of the cooperation procedure in the Single

European Act (1987). In the cooperation procedure the European Parliament gained the right to make amendments and reject legislation, although the latter is subject to a potential override by a unanimous Council. The co-decision procedure introduced a conciliation committee which consists of an equal number of representatives from the European Parliament and the Council. The co-decision procedure was established by the Maastricht treaty (1992) and subsequently reformed in the Amsterdam treaty (1997).

There is a vast literature on the effect of these changes to the power of the legislative bodies on EU legislation (Selck and Steunenberg 2004; Hörl, Warntjen et al. 2005; Steunenberg and Selck 2006). In modelling the legislative process, a decision has to be made on what rights legislative bodies effectively have. There is, however, no agreement on how the procedures work precisely and what consequences follow (e.g., Steunenberg 2000; König and Pöter 2001; Thomson, Stokman et al. 2006). Theoretical accounts using spatial models have come to different conclusions depending on their model of the process and their assumptions with regard to the preferences of legislative bodies and the location of the status quo. According to some scholars, for example, the codecision procedure (Amsterdam version) has turned the European Parliament into a co-equal legislator (e.g., Tsebelis and Garrett 2000) while others maintain that the Council still dominates legislative decision-making (Napel and Widgren 2006). What is beyond dispute is, however, that the Council is the crucial linchpin whose agreement is needed to pass EU legislation.

Figure 3.1.: Legislative Decision-making in the European Union



¹ = period may be extended by common accord of Council and Parliament.
² Also Parliament first indicates with an absolute majority its intent to reject the Common Position. The Council may convene the Conciliation Committee. The Parliament can confirm its rejection with an absolute majority upon which the proposal fails (Art. 189b IIc).

3.3. Decision-making inside the Council: The Voting System

To pass legislation, the Council needs to agree on it either by unanimity or by qualified majority (Hix 2005, Appendix). Under unanimity all member states have one vote. More importantly, all member states enjoy veto power and can thus prevent the adoption of new legislation. If a qualified majority is required, a system of weighted votes is used which gives member states different votes roughly according to their (population) size (Table 3.1.). The exact distribution of voting weights has been changed repeatedly and has been the subject of fierce discussion on treaty reform. In the period after 1984, proposals that could be adopted by qualified majority dominated in the discussions in the Council. While about 50 per cent of treaty provisions allow for qualified majority (a number that has been increased in successive treaty reforms), about 80 per cent of proposals in the Council are subject to qualified majority voting (König and Bräuninger 2002).

The allocation of voting weights in combination with the threshold needed for the adoption of legislation has two effects. Firstly, it determines the a priori power of a member state in the Council. The influence of a member state on any given proposal is affected by further factors such as the distribution of preferences, the importance member states attach to an issue, and the location of the status quo (Garrett and Tsebelis 1999). However, insofar as coalitions form randomly due to idiosyncratic concerns on each dossier the influence of member states in the long run only depends on the voting system (Felsenthal and Machover 1997; Felsenthal and Machover 2004; Hosli and Machover 2004). Secondly, it determines the likelihood that any given proposal passes.

Table 3.1.: Qualified Majority Voting and Decision-making Efficiency					
	1958-72 (EU-6)	1973-80 (EU-9)	1981-84 (EU-10)	1985-94 (EU-12)	1995-03 (EU-15)
France	4	10	10	10	10
Germany	4	10	10	10	10
Italy	4	10	10	10	10
UK		10	10	10	10
Spain				8	8
Netherlands	2	5	5	5	5
Belgium	2	5	5	5	5
Greece			5	5	5
Portugal				5	5
Austria					4
Sweden					4
Denmark		3	3	3	3
Ireland		3	3	3	3
Finland					3
Luxembourg	1	2	2	2	2
Total	17	58	63	76	87
Voting	14	41	45	54	62
Weights	(82.4%)	(70.7%)	(71.4%)	(71.1%)	(71.3%)
Acceptance Probability	21.9%	14.6%	13.7%	9.8%	7.8%

Sources: Felsenthal and Machover (1997), Hosli and Machover (2004)

We can calculate the a priori probability of a legislation being adopted by computing the ratio of all winning coalitions to all possible coalitions (e.g., Baldwin, Berglöf et al. 2001). Table 3.1. presents the distribution of votes and the voting threshold for qualified majority from 1958 through 2003. In this period, the adoption probability declined from 21.9 per cent in the original Community of six member states to 7.8 per cent in the Union of 15 after the Northern Enlargement in 1995. In the 1980s the acceptance probability in the Council dropped below 10 per cent. The actual acceptance rate is much higher. Indeed, in the period 1984 through 1994 70 per cent of all proposals were passed (König and Bräuninger 2002). This discrepancy is probably due to several factors, including the anticipation of major resistance to some issues, which are subsequently not proposed by the Commission, the accommodation of opponent's concerns through exemptions and transitional periods, and the lack of time limits after which pending proposals expire automatically. As the calculation of acceptance probabilities demonstrate, the adoption of a proposal in the Council is by no means a

foregone conclusion. Instead, high voting thresholds in the Council pose a major obstacle for a proposal to become law.

The new voting system adopted in the draft constitution by the Convention on the Future of Europe would lighten the burden of decision-making somewhat, but proposals still face high voting thresholds and low probabilities of being accepted (Felsenthal and Machover 2004). Thus, the Council is (and remains) a fairly narrow needle's eye through which all legislation must pass. The leadership of the Council Presidency can be valuable in this setting as I explain in the next chapter.

3.4. Decision-making inside the Council: Legislative Organization

Council decisions are taken in a system of vertical and horizontal division of labour. Before an item is discussed at the ministerial level, it is scrutinized by a committee of the permanent representatives and the deputy permanent representatives (COREPER I and II). Prior to this, working groups of national officials debate the proposals. A proposal on which no agreement can be reached at the ministerial level is passed upwards to the European Council, where the heads of government meet. At the ministerial level, the Council meets in several sectoral formations. All meetings at all levels are generally chaired by the Presidency.

A substantial number of legislative proposals are effectively decided below the ministerial level. The most authoritative study on the effect of the vertical division of labour so far examines 439 legislative dossiers introduced between 1 January 2000 and 1 January 2004. It reveals that the proportion of dossiers discussed at the ministerial level in first reading differs vastly between portfolios (Häge 2007). While all health

issues were discussed at the meeting of ministers, only in 16.7 per cent of dossiers related to culture were ministers directly involved. Overall, ministers only discussed 62.6 per cent of legislative decisions in the sample. Whether or not a proposal was not just discussed by national officials but also by ministers depended on the level of involvement of the European Parliament and the salience of the issue. Unfortunately, the study does not include a separate measure for the salience attached to a dossier by the Council Presidency⁶. The vertical division of labour would directly affect decision outcomes, if important decisions are delegated to committee meetings composed of national representatives whose preferences depart from those of their ministers. Alternatively, if national representatives de facto adhered to different (formal or informal) rules than ministers it would make a difference who effectively decides in the Council. A study of members of Council workings groups, concludes that their role perceptions do not differ significantly from those held by the elites of their member state (Beyers 2005). The question, however, is far from being resolved conclusively.

The horizontal division of labour, i.e. the meetings of ministers with specific responsibilities for more or less narrow portfolios, could also affect legislative decision-making. 'In contrast to cabinet government, where ministers responsible for *different* policy sectors seek to concede, the Council structure leaves EU policy decisions in the hands of national ministers with *similar* preferences.' (Steunenberg 2004: 158) If ministers are preference-outliers relative to the national government as a whole on the question which they are deciding and decisions are de facto taken by the Council, biased outcomes would result. Indeed, in the Council there is only a weak institutional control on sectoral Councils (Franchino and Rahming 2003; Steunenberg 2003; Steunenberg 2004). In principle, the General Affairs Council (or even the European Council) could

⁶ Salience is measured by the number of recitals in the original Commission proposal.

reign in a Council formation that is not acting according to the interest of member state governments. Insofar as the sectoral Councils enjoy private information on (the effect of) their decisions, this is only a weak constraint (Laver and Shepsle 1996). Franchino and Rahming (2003) have studied the effect of biased ministers on Council decisions for the Fisheries Council in the period 1984 through 1999. They show that the parties to which the members of the Fisheries Council belong depart significantly from the government position as a whole. Furthermore, the decisions in the Fisheries Council follow the preferences of the (sectoral) ministers. Thus, the Fisheries Council does consist of preference outliers and this affects Council decision-making in this policy field.

One mechanism to circumvent these centrifugal tendencies of a segmented decision-making system would be to strengthen the office of the Presidency. If the Presidency had agenda-setting power vis-à-vis a joint session of sectoral ministers and if the Presidency was elected (or appointed) by the member states (or the European Parliament or the European electorate) to ensure that it serves broader interests, then Council decisions would be more balanced (Steunenberg 2003).

3.5. Decision-making inside the Council: The Council Presidency

3.5.1. Development of the Council Presidency

The six-monthly rotating Presidency has been a feature of the European Community since the Treaty of Rome and in the course of four decades of integration its functions have gradually been increased. In the wake of taking on new responsibilities in the ever more complex environment of an ever wider and deeper Union, the need to strengthen its efficiency has been expressed on several occasions (see also last chapter)

According to Article 146 of the Treaty of the European Communities ‘the office of President shall be held in turn by each Member State in the Council for a term of six months’. Its responsibilities initially consisted primarily of acting as a chairman and representing the Council (Wallace 1985).⁷ With an increase in the activities of the Council and particularly with the rise of the sectoral Councils and working parties, the need for coordination became more pronounced (Westlake 1999). In the 25 years from 1958 to 1993 the number of committees and working parties increased sevenfold, from 302 in 1958 to 2,106 in 1993 (Westlake 1999: 62). In addition, the Presidency has to chair more than a hundred meetings of the Council itself and its preparatory bodies COREPER I and II (Table 3.2.).

Table 3.2.: Meetings of Council and Preparatory Bodies, 2000-04

<i>Year</i>	<i>Presidency</i>	<i>Council</i>	<i>COREPER I</i>	<i>COREPER II</i>	<i>Committees and Working Groups</i>
2000	Portugal	60	38	30	1874
	France	71	37	25	1814
2001	Sweden	73	39	34	2344
	Belgium	74	37	30	1872
2002	Spain	53	48	36	2353
	Denmark	79	47	39	2437
2003	Greece	82	37	36	2188
	Italy	60	33	28	1976
2004	Ireland	75	36	34	2102

Source: General-Secretariat, European Union Council of Ministers

The Tindemans Report (1975) on the scope of the Union recommended extending the Presidency’s term of office to one year to provide better coherence of action. The Report of the Three Wise Men (1979) also perceived a stronger Presidency to be the solution for a number of problems:

⁷ This has increased with the development of the European Political Cooperation. As this does not touch upon the legislative role of the Council, it will be ignored here (for an overview see Westlake 1999: 37-49).

‘In improving the Council's performance, the first priority is to strengthen the Presidency in its dual role of organizational control and political impetus. It is no accident that the functions of the Presidency have been both expanded and more widely recognized in recent years. The strong central management which it can provide offers the most natural means of “compensating” for the centrifugal tendencies within the Council.’ (Report of the Three Wise Men 1979: 30)

In a similar vein, the European Commission observed in its White Paper on European Governance that ‘there is a need for the Council to develop its capacity to co-ordinate all aspects of EU policy both in the Council and at home.’ (2001: 29).

The Treaty of the European Union (1992) formalized the role of the Presidency by incorporating rules and responsibilities into the treaty that were previously set out in the Council's Rules of Procedures. The latter saw an expanding list of increasingly detailed regulations of the Presidency's tasks. In 1979, it was to convene meetings, draw up provisional agendas and chair meetings. Furthermore, it ‘may’ represent the Council vis-à-vis the European Parliament. The new Rules of Procedures in 1993 added the drafting of a six-month work programme, the administration of a written vote procedure, and chairing preparatory meetings ahead of its term (Hayes-Renshaw and Wallace 1997: 136-9). The Rules of Procedure adopted in 2002 in Seville refer to a multi-annual strategic programme, which is to be drawn up by the Presidencies involved. In this spirit, the member states holding the Presidency in 2003 (Greece and Italy) adopted a joint working programme. The multi-annual programme is drafted by the ‘Presidencies concerned’ after consultation of the Commission. After discussion in the General Affairs Council it is adopted by the European Council (Art. 2 Para. 1 Council's Rules of Procedure). The latter is ‘finalised’ by the two upcoming

Presidencies after a discussion in the General Affairs Committee in December of the year preceding the relevant Presidencies (Art. 2 Para. 2). Seven months before the start of its Presidency the respective member states announces, after consulting his preceding and succeeding Presidency, the dates of meetings (Art. 1 Para. 2). One week before the start of its term, at the latest, it shall establish indicative provisional agendas for the meetings scheduled (Art. 2 Para. 6). Within the Council, the main function of the Presidency is to serve as chairman of its meetings. Unless the Council decides so by unanimity at the beginning of the meeting (Art. 3 Para. 7), the agenda will be restricted to items on which the respective documents have been sent to the Council members, and the Commission, 14 days prior to the meeting (Art. 3 Para. 4). The provisional agenda indicates items on which the Presidency, a member of the Council, or the Commission may request a vote. The agenda is split into 'A' items on which there is no discussion and 'B' items where there is discussion. If an 'A' item might lead to discussion or if a Council member requests so, it shall be withdrawn from the agenda, unless the Council decides otherwise (Art. 3 Para. 8). All the items on the agenda shall be reviewed by the Committee of Permanent Representatives (COREPER), which shall strive to reach agreement to be submitted to the Council for adoption (Art. 19 Para 2). COREPER is shared by a delegate from the member state holding the Presidency (Art. 19 Para. 4). The meetings of subsequent workings groups are to be organized by the Presidency (Art. 21). They shall be chaired by the member state that holds the Presidency at the time at which the topic will be essentially dealt with (Art. 19 Para. 6). The Council shall vote on the initiative of the Presidency or at the request of a Council member or the Commission, if a majority of member states supports the request (Art. 11 Para. 1).

The importance of the Council Presidency is reflected in various attempts of reform, which were primarily aimed at strengthening it (also see last chapter). The treaty

establishing a Constitution for Europe as passed by the European Council in Dublin in June 2004 establishes an elected President for the European Council and a permanent Presidency for the Foreign Affairs Council. The chair of the other Council formations, however, is still subject to rotation. Its conditions, including the length, shall be established by a decision of the European Council (Art. I-23 Para. 6). The draft version adopted by the European Convention on the Future of Europe provided for a term of office of at least one year. The reform of the Council was a particularly contested topic between the various groups represented in the Convention (König, Warntjen et al. 2006). For example, a majority of delegates from new member states favoured to keep the system of rotation, whereas most delegates from the old EU-15 states preferred a team presidency (Table 3.3.). Furthermore, large member states were mainly in favour of an elected President, whereas a majority of smaller member states favoured keeping the rotating Presidency or adopting team Presidencies.

Table 3.3.: Preferences on Council Presidency Reform at the Laeken Convention

	Rotating Presidency	Team Presidency	Elected President	Total
Small vs. large member states				
Small	26 (42.6%)	26 (42.6%)	9 (14.8%)	61 (100%)
Large	2 (8%)	9 (36%)	14 (56%)	25 (100%)
Old vs. new member states				
New	15 (44.1%)	12 (35.3%)	7 (20.6%)	34 (100%)
Old	13 (25%)	23 (44.2%)	16 (30.8%)	52 (100%)
All	28 (32.6%)	35 (40.7%)	23 (26.7%)	86 (100%)

Source: König, Warntjen et al. 2006

3.5.2. The Powers of the Council Presidency

There is broad agreement in the literature that the Council Presidency provides the member state who is holding it with an opportunity to press policy initiatives and influence decision outcomes (Kirchner 1992: 80 and 86; Schout 1998; Dinan 1999: 241; Hix 1999: 66; Peterson and Bomberg 1999: 34-5; Westlake 1999: 46-7 and 63; Sherrington 2000: 41). The Council Presidency can influence the pace of decision-making by prioritizing issues. We can, analytically, distinguish this effect on legislative

activity in the Council from its influence on decision outcomes. The former refers to when or whether or not decisions are reached in the Council, the latter to the outcome of the decision.

The most comprehensive account of the potential impact of the Presidency comprises of the work of Jonas Tallberg (2003; 2004; 2006). Tallberg argues that the Council Presidency has agenda-shaping powers, which consists of agenda-setting, agenda-structuring, and agenda exclusion. In his terminology agenda-setting refers to the 'introduction of new items on the policy agenda', agenda-structuring to the 'emphasizing or de-emphasizing of items already on the agenda' and agenda exclusion to the 'active barring of items from the policy agenda' (Tallberg 2003: 5). With regard to agenda-setting Tallberg discusses the ability of the Council Presidency to raise the awareness of issues, make proposals, and adopt institutional practices. In terms of agenda-structuring Tallberg, following Sherrington (2000), emphasizes the impact of the chair on the frequency and format of meetings. Furthermore, Tallberg (2003: 10-11) argues that the Presidency has agenda control in the sense of McKelvey (1976). In McKelvey's terminology, an agenda setter can structure the ordering of votes and thus potentially manipulate the decision outcome. The examples Tallberg cites, however, seem to be more in line with agenda-setting in the tradition of Kingdon (1995) to which he refers in his account on agenda-setting (Tallberg 2003: 6). In Kingdon's account, agenda-setting refers to the possibility of introducing an item to the decision agenda. Thus, Kingdon is primarily concerned with the selection of issues that are actively discussed at any given moment in time, rather than with the selection of alternatives under discussion. I will discuss the relationship between Tallberg's terminology and general political science theories in more detail in the next chapter (section 4.4.2., see also Warntjen forthcoming). Finally, agenda exclusion refers to the Presidency staying

silent on an issue, excluding it from the decision agenda, and presenting impossible compromise proposals. Due to its focus on establishing the various powers of the Presidency, Tallberg (2003) does not offer an extensive discussion of the effects of these powers identifying the exact causal mechanism. In his account of agenda exclusion the focus is on the effect on legislative activity: ‘The presentation of a proposal that clearly can not gather the necessary support among member governments does not exclude an issue from consideration, but effectively stalls progress toward a decision.’ (Tallberg 2003: 13). The same is true for his discussion of agenda-structuring. As he also debates the argument on constraints by the inherited legislative agenda and presents an overall assessment of the effect of the Presidency, it is worth quoting a paragraph from this section at length:

‘The Presidency’s emphasizing and de-emphasizing of alternative issues and domains sets the pace in the handling of individual dossiers, and thereby shapes relative policy progress during a six-month period. Influence is not prevented by the pre-existing agenda; rather, influence is possible for the very reason that Presidencies tend to inherit substantial parts of their six-month agenda. In the literature on the Council Presidency, this systematic form of influence is commonly reduced to a “flavour” that Presidencies may add to the EU agenda, in the absence of a true capacity to pursue national interests. In fact, it may be this “flavour” that most clearly embodies the effect of a particular Presidency on the EU’s agenda.’ (Tallberg 2003: 9)

The section on agenda-setting also refers to the setting of priorities, raising the profile of issues or enabling co-operation in new areas; all activities related to legislative activity rather than decision outcomes. Even Tallberg’s discussion of agenda-setting in the

tradition of McKelvey (1976) is not concerned with the agenda-setter's effect on decision outcomes, but rather with the provision of initiatives. 'With a monopoly on the introduction of new policy proposals, and with a capacity to structure majority rule contests, the agenda shaper can secure a steady 'supply' of new and stable initiatives in the political system.' (Tallberg 2003: 14) This is also part of the reason why the other member states acquiesce in the powers of the Presidency (again, a point which I will take up in more detail in the next chapter and in Warntjen forthcoming). In his book-length treatment of the subject, Tallberg (2006) also discusses the distributional consequences of the Presidency's role as 'agenda manager', broker, and representative. This is based on both procedural powers and an informational asymmetry.

'... Presidencies steer away from their worst alternative and toward their preferred outcome. The privileged information about state preferences is exploited to extract concessions from the Presidency's adversaries. The command over the negotiation process I used to formulate compromise proposals that keep certain options on, and others away from, the negotiation table.' (Tallberg 2006: 140)

While Tallberg's examples on the Presidency's brokerage are drawn from intergovernmental conferences, the same argument applies to legislative decision-making.

As I will discuss in the next chapter, there are some conceptual problems with Tallberg's account. Furthermore, his empirical evidence consists solely of a few illustrative cases as I will discuss below. As my focus is only on the Presidency's effect on legislation, I will ignore his examples related to discussions in the European Council.

Unlike Tallberg I will structure my account by the potential effect rather than by the powers or functions of the Presidency. The next section discusses the potential effect on legislative activities before I turn to the potential impact on decision outcomes.

3.5.2.1. The Council Presidency and Legislative Activity

The Council Presidency could prioritize Council business according to its national interests. While this point has been made repeatedly in the literature, the overall assessment of the influence of the Presidency has often been ambiguous. The existing literature also does not offer conclusive empirical evidence on this question. So far, empirical accounts mainly consist of a few illustrative examples or only touch upon the question of the Council Presidency's influence in passing.

Scholars have repeatedly noted both the potential for a Council Presidency effect on the decision-making agenda in the Council and the limits to the powers of the Presidency. For example, Hayes-Renshaw and Wallace note that the Presidency 'is the one clear and only occasional opportunity for a member government to imprint a particular style on the Council, to impose a particular topic on colleagues, or to ride an individual minister's hobby horse.' (1997, p. 145). By deciding on the format, frequency and content of (formal and informal) meetings the Presidency might be able to prioritize topics (Kirchner 1992: 90-1 and 106; Tallberg 2003; Tallberg 2004). Within the meetings the Presidency can fast-track items by going into bilateral talks (Hayes-Renshaw and Wallace 1997: 147) or use indicative votes to put pressure on recalcitrant member states (Westlake and Galloway 2004: 41).

However, the limits of the Presidency's power are also noted in the literature. The Presidency's clout is constrained by the effects of external events, the need for

consensus (or a sufficient majority) to adopt laws, the limited time span of its term in office and the on-going legislative programme (Wallace 1985: 14-5; Hayes-Renshaw and Wallace 1997: 146). Westlake and Galloway argue that the Presidency nevertheless retains enough lee-way to leave its marks: 'Even though the presidencies have to slot into multi-annual and annual programmes, ongoing legislative processes, rolling programmes, action plans and the like, they can brake or accelerate negotiations, concentrate the Council's firepower, and take initiatives.' (2004: 35). Similarly, Tallberg argues that the inherited agenda and external events might not be a constraint, but rather add to the potential for manipulation by the Presidency: 'Subjects already on the agenda are not immune to the agenda-shaping efforts of a new Presidency, nor do national or international crises automatically translate into items of deliberation and decision at the European level.' (Tallberg 2003: 5) Thus, a number of scholars have noted the potential impact of the Presidency's national priorities on EU legislative activity.

Despite the frequent references to the potential of the Presidency, so far no comprehensive empirical study has been carried out to investigate whether or not the Presidency is indeed successfully pushing for legislation in areas it deems important. Existing empirical accounts of the Presidency for the most part cover only individual Presidencies or are focusing on other aspects, such as administrative preparation or the role perception of civil servants involved in the Presidency. Accounts of individual Presidencies discuss their priorities, but usually do not distinguish between the legislative agenda and the topics for summits. Furthermore, they do not follow up on whether or not a Presidency did indeed pass more legislation in the prioritized areas. Finally, the priorities are derived from statements of the Presidency itself. These might include dossiers simply for credit-claiming, even if they are not a Presidency priority.

Also, a Presidency might vow to take up (or conclude) negotiations on a given dossier without having any intention to push for an agreement. Table 3.4. summarizes accounts for the Presidencies in the time period 1998 through 2002.

Year	Council Presidency	Areas of main activities and priorities	Source(s)
1998	United Kingdom	Environment, Economic reform, co-operation in Justice and Home affairs, Enlargement, EMU, Agenda 2000	(Anderson 1999), (Henderson 1998), (Ludlow 1998), (Manners 2003)
1999	Austria Germany Finland	EMU, enlargement, Agenda 2000 Agenda 2000, EMU, employment Enlargement, institutional matters, “area of freedom, security and justice”, defense/crisis management, external relations – “northern dimension	(Luther 1999) (Maurer 2000) (Tiilikainen 2003)
2000	Portugal France	Employment (Lisbon process, particularly information society), security and defense, CFSP (Mediterranean focus) Institutional reform, security and defense	(Edwards and Wiessala 2001) (Lequesne 2001), (Bjurulf 2003)
2001	Sweden Belgium	Enlargement, employment, environment, crisis prevention Institutional reform, fight against terrorism	(Elgström 2002; Elgström 2002) (Kerremans and Drieskens 2002), (Voss and Bailleul 2002)
2002	Spain Denmark	Fight against terrorism, economic liberalization (Lisbon process), CFSP (Mediterranean focus), Enlargement, launch of Euro, immigration, external relations – “Mediterranean dimension” Enlargement	(Barbe 2003), (Morata and Fernández Pasarín 2003) (Friis 2003)

As can be seen, the literature mainly focuses on the ‘big topics’ which are relevant for the long-term and are the subject of meetings of the European Council, rather than on the legislative agenda of the Council of Ministers.

Existing comparative studies on the effect of the Council Presidency on legislative activity in the Council of Ministers are also limited. An early comparative study of Council Presidencies from 1973-83 aimed at studying how national bureaucracies coped with the tasks of the Presidency and how this could be improved upon (O’Nuallain 1985: xiii). With regard to EU legislation, Regelsberger and Wessels (1985: 88) note that the German Presidency in 1983 successfully prioritized the consolidation of the

internal market. Similarly, Sherrington's (2000) study of Council discussions on eight legislative initiatives in the period 1988 through 1992 focuses on the way different Council formations operate, not on the relationship between national salience attached to a policy field by the Council Presidency and European legislative activity. She does however report three examples of legislative dossiers in which Presidencies tried to fast-track items which may have been due to national priorities: the titanium dioxide directive under the German Presidency in 1988 (Sherrington 2000: 125), the lingua programme under the Spanish Presidency in 1989 (150-1), and the money laundering directive under the Italian Presidency in 1990 (108-9). A more recent comparative study of Presidencies between 1989 and 2002 does not evaluate the impact of the Presidency on EU legislation at all (Elgström 2003: 8). The most comprehensive study on the Presidency's performance and priorities so far compares the 1994 and 1999 German Presidencies to the British Presidencies in 1992 and 1998 with regard to environmental regulation. It finds little evidence for a relationship between the priority attached to environmental policy legislation by a member state and legislative activity in the environmental field (Wurzel 2004: 13, 28-29).

3.5.2.2. The Council Presidency and Decision Outcomes

Besides the potential influence on legislative activity, scholars have discussed the potential impact of the Council Presidency on decision outcomes. As Hayes-Renshaw and Wallace put it succinctly: 'It is assumed in the Council, as often elsewhere, that whoever is in the chair can actually use the power of a louder voice to influence the outcomes of debate...' (2006: 148) However, scholars have also pointed out that the Presidency's powers are limited and its impact constrained. Some scholars have even argued that a member state has to make extra-ordinary concessions during its term at the

helm. In the following, I discuss the reasoning behind these contending perspectives and the empirical evidence which has been presented so far.

The Presidency gives an informational and procedural advantage to a member state during its six months in office (Tallberg 2003; Tallberg 2006).

The Presidency's role as broker in Council negotiations is widely acknowledged. It can use its central position to acquire information about potential concessions member state would be willing to make that is not available to the other member states. For example, the Presidency can halt ongoing discussions to go into bilateral 'confessionals' (Hayes-Renshaw and Wallace 2006: 150; Tallberg 2006: 115) Furthermore, the Presidency enjoys the support of the Council Secretariat which systematically collects information about the member state positions and provides expertise on technical and procedural matters (Hayes-Renshaw and Wallace 2006: 144; Tallberg 2006: 114). Consequently, the Presidency can draw upon private information about the positions of other member states to suggest the compromise closest to its own preferences. Furthermore, it can be argued that co-decision has further empowered the Presidency by acting as a representative of the Council in the informal 'trialogues' between Council and supranational actors (Peterson and Bomberg 1999: 35; Farrell and Heritier 2004: 1203). The Presidency can, for example, misrepresent the position of the European Parliament in the final stages of the legislative proceedings to further its own interests (Tallberg 2006: 145)

In procedural terms the Presidency has a prerogative of making proposals which can lead to biased outcomes (Tallberg 2006: 116-7). It can also call for a vote to be taken on an issue immediately. In addition, according to Tallberg (2003: 11-3), the Presidency enjoys gate-keeping power (Denzau and Mackay 1983), i.e. it can decide that the status

quo is preserved if a change in policy would not fit its interests. Similarly, other scholars have credited the Council Presidency actors with the de facto power of making ‘take-it-or-leave-it’ proposals (Crombez 2000; Steunenberg and Dimitrova 2003; Widgren 2004). Steunenberg and Dimitrova argue that within the Council ‘the Presidency selects the final policy conditional on the agreement of the other members’ (2003: 12). Consequently, their model predicts that the Presidency has a significantly larger influence on policy outcomes than ordinary Council members (Steunenberg and Dimitrova 2003, Table 1). Widgren (2004: 91) argues that the Presidency has a ‘leading role as the agenda-setter and the gate-keeper’ prior to the meetings of the conciliation committee. In sum, according to this line of reasoning the Presidency grants power to the member state in office which it can (and will) use to affect decision outcomes according to its national interests.

The Presidency however does not reign freely during its term in office. ‘[The] Council remains an institution of diffuse consensus, not easy to manipulate or to lead by the nose, and deeply resistant to the explicit peddling of sharp national interests’ (Hayes-Renshaw and Wallace 2006: 148). The supermajoritarian voting threshold and the need to find unanimous consensus in the Council in some cases diminish the impact of proposal power. In addition, depending on the legislative procedure the position of the Commission and the European Parliament might also have to be taken into account (Tallberg 2006: 117-9). Furthermore, the information advantage of the Presidency might diminish as negotiations go on and all member states learn about their respective positions. Similarly, a member state might be able to sound out colleagues on an issue which is of high importance to it. The same can be true with regard to the position of the European Parliament (Garman and Hilditch 1998: 279). Furthermore, the Commission is represented at the ‘trialogues’ and regularly attends Council meeting (Hayes-Renshaw

and Wallace 2006: 35), putting it into a good position to spoil the tactical manoeuvrings of the Presidency. In addition, member states only hold the office of the Presidency for six months. Member states might prefer to wait for the next country to take over, which might have preferences closer to their own, rather than to make concessions to the current Presidency. Finally, the Presidency can only act on an inherited agenda. Overall, these considerations suggest that the Presidency is 'heavily constrained' (Hayes-Renshaw and Wallace 2006: 148) in its attempts to promote initiatives or claim special benefits. Because of these constraints the overall effect of the Presidency on decision outcomes might be negligible.

Chairing the office of the Presidency puts a member state into the limelight which might induce it to make extraordinary concessions. If the member state holding the Presidency values a reputation for being neutral and effective in reaching agreements, then its ability to defend its own national interests would be impaired. Wallace (1985: 15-7) contends that a Presidency is more likely to be successful if it is perceived as neutral which in turn might involve making concessions (Kirchner 1992: 107-9; Christiansen 2001: 144; Elgström 2003; Nugent 2003: 163). In addition, according to Peterson and Bomberg (1999: 35) '... each presidency is judged by how "productive" it is, thus often inducing the state holding the chair to compromise its own national preferences to get deals agreed' (see also Dinan 1999: 245-6). Thus, instead of being powerful or seeing its potential powers limited in practice, the Presidency might even be forced to make extraordinary concessions. Holding the Presidency might hence be a burden not just in administrative terms but also with regard to decision outcomes.

Although the potential impact of the Presidency is widely acknowledged there is no agreement on whether or not the Presidency successfully influences EU legislation. It is

pointed out that the prerogatives of office allow the member state holding the Presidency to reap disproportionate benefits. Yet, the procedural powers of the Presidency are limited and constrained by the need to secure approval by a large number of actors. Whether or not the Presidency benefits from an informational advantage is ultimately unclear. Furthermore, it has also been noted that the Presidency might be under pressure to lead by example and make concessions to reach agreements. The literature highlights the voting threshold, the legislative procedure, and the support of the European Commission and European Parliament as factors affecting the power of the Presidency.

The qualitative empirical literature overall is inconclusive with regard to the powers of the Presidency. Sherrington concludes that the success of Spain on the *Lingua* foreign-language programme in 1989 is ‘probably explained by its position as Council Presidency and by electoral considerations.’ (2000: 153). She also suggests that Italy, which held the Presidency during the first discussions of the money laundering directive in the Council in 1990, ‘may have used the Presidency for domestic reasons’ (109). Tallberg (2003: 13) refers to examples from the German and French Presidencies in 1999 and 2000 where a Presidency did not pursue a topic. The main example is the turnaround during the German Presidency on the vehicle-end-of-life directive. ‘Having successfully used the agenda-management powers of the chair to postpone a decision, and subsequently gained the support of the UK and Spain, the German government concluded its Presidency by opening the door to a future compromise more in line with the interests of its domestic automobile.’ Tallberg (2006: 106) The inference with regard to the German position and its success in moving the outcome toward its preferred outcome is based on press reports. A counter-example is the German Presidency in 1992, during which Germany did not succeed in moving the decision

towards its ideal on an environmental directive although some German suggestions were finally included (Wurzel 1996: 285). A study of environmental legislation during the British and German Presidencies in the 1990s concludes on the one hand that the Presidencies succeeded in keeping some items off the table but on the other hand that the member states had to make extraordinary concessions on important legislation during its term in office (Wurzel 2004: 25). These case studies, however, do not rule out that a member state did not benefit on a given proposal from holding office but rather from the overall preference configuration, or was lucky in having a position similar to a powerful actor.

The most comprehensive empirical studies on the impact of the Presidency on decision outcomes so far are based on data gathered by the 'Decision-making in the European Union' (DEU) project (Thomson, Stokman et al. 2006). The data set contains information on the preferences of all Council members, the European Commission, and the European Parliament as well as decision outcomes for 66 Commission proposals pending in 1999-2001. The positions are represented on a standardized issue continuum ranging from 0 to 100. Thomson (forthcoming) analyses whether or not decision outcomes are closer to member states who held the Council Presidency during the legislative process. The regression analysis includes control variables for the extremity of the member states position and the average extremity of all actors. Extremity of an actor is defined as the average distance between the position of an actor to the positions of all other actors weighted by their voting power and the importance they attach to a given issue. In addition, the voting power (Shapley-Shubik) of an actor, the legislative procedure, and the applicable voting threshold in the Council were controlled for. The findings show that decision outcomes are closer to a member state that held the Presidency when a proposal was adopted ($p \leq .1$). The effect holding the Presidency

during the negotiations (but not during the introduction or adoption of a proposal) depends on its relative position and the voting threshold. Schalk, Torenvlied et al. (2007) estimate whether or not holding the Presidency leads to outcomes closer to a member state's ideal point, using a weighted mean as a baseline model. The weights used are voting power (Shapley-Shubik) and salience. They also find that the Presidency only benefits member states during the adoption stage of a proposal. The Presidency's power is not affected by the salience, voting power, or closeness to the Commission's position of the member state holding the Presidency.

3.5.3. The Powers of the Presidency: The Practitioners' Perspective

To get a better impression of the workings of the Presidency, I conducted 32 interviews with observers of and practitioners in the European legislative bodies⁸. The Council is still a relatively secretive institution. The aim of the interviews was to shed some light on the inner workings of the Council. In particular, their purpose was to determine whether or not the insights and arguments discussed in the literature are reflected in the perceptions of observers and practitioners and if any other aspects of decision-making in the Council needed to be accounted for in a theory of the Council Presidency.

The interviews were held in Brussels in June 2005 during the Luxembourg Presidency. The interview lasted between 30 and 90 minutes, the average duration was 54 minutes. The majority of my interviewees were based in the national representations in Brussels. The interviews covered the perspectives of big (Germany, Italy) and smaller member states (Austria, Belgium, Denmark, Finland, Ireland, Luxembourg, Netherlands, Portugal, Sweden). Due to the focus of my statistical analysis on the period prior to Eastern Enlargement in 2004, I only contacted member states of the EU-15. Twelve

⁸ See Appendices A and B for an interview guide and a list of the institutional affiliation of interview partners.

members of national representations granted me interviews. This included four permanent representatives, three deputy permanent representatives, one minister, and four counsellors. Besides national representatives I had interviews with six head of units in the Council of Ministers. In addition, I interviewed three head of units in the European Commission from different Directorate-Generals (Environment, Employment, Social Affairs and Equal Opportunities and Health and Consumer Affairs). I also interviewed two highly placed officials in the European Parliament and two officials in the Economic and Social Committee. Finally, I had interviews with five observers of the legislative process from a consultancy firm and interest groups. Although most practitioners argued that the Presidency only has a limited effect on EU legislation, they largely confirmed the central position of the Presidency, its procedural privileges and the existence of an informational asymmetry in its favour.

One permanent representative (interview partner 9) from a smaller country argued that the Council Presidency is ‘only running the show’ in the Council. A similarly account was presented by a permanent representatives from two other small countries (interview partner 20, 24). The agenda is decided by the Presidency but it has an effect ‘only on the margins’ (interview partner 20) and ‘very limited influence’ (interview partner 24). However, according to interview partner 24 the Presidency can accelerate decisions and ‘clearly has some choice and makes a choice’ with regard to the legislative agenda. One counsellor (interview partner 5) argued that the Presidency can ‘give more attention to one thing than to others’ and influence decision outcomes ‘on the margins’. This overall assessment was also chaired by a Council official, who conjectured that items which are sufficiently advanced cannot be blocked. The Council Presidency can ‘lead but not dictate’ (interview partner 7). A former Council official (interview partner 30), who is now working in the Economic and Social Committee, argued that it is accepted practice

for the Presidency to set priorities but that it in general couldn't pull decision outcomes towards its position. A 'devious chairman' might influence decision outcomes, but it was 'very unlikely'. Interview partner 17 opined that the Presidency 'can hit the gas or the brakes' but it does not act in a 'political vacuum'. This view was echoed by interview partners 8 and 9, who described how the Presidency is constrained by the Commission's monopoly on legislative proposals, the legislative calendar, and strict deadlines in co-decision. Furthermore there is a requirement of consensus: 'you don't force agreements' (interview partner 5).

One national representative estimated that 80 per cent of the legislative agenda is inherited (interview partner 9). One Council official put the figure at 90 per cent (interview partner 27). According to interview partner 9, the Presidency is only 'in the driver-seat' when it comes to prioritizing and where a pro-active approach is necessary to reach agreement. For example, his expectation was that the service directive, the directive on the control of chemicals (REACH), and the working time directive would be on hold during the upcoming British Presidency. One counsellor (interview partner 5) explained that the Presidency acted as 'master of ceremony'. It prioritizes items by devoting more resources to them, particularly at the working group level. Member states holding the Presidency 'do their utmosts in essential areas for them' (interview partner 9). The Presidency can prioritize issues but not keep them from the table forever, particularly against the wishes facing a majority of member states (interview partner 7, 25, 27, 31, 32).

One deputy permanent representative (interview partner 6) commented on the conditionality of the Presidency's influence. After the first reading it was in his view 'almost impossible' to put a distinctive imprint on legislation, whereas in the first

reading 'pick and choose is still possible'. This view was echoed by a Commission official (interview partner 11), who emphasized that there were no time limits in the first reading and everything was still on the table. Afterwards nothing new could be brought up. He also discussed the possibility of the legislative pipe-line 'drying up', which would prevent a Presidency from picking and choosing from a wide range of Commission proposals (similar remarks were made by interview partner 1). This has happened in the past, e.g. before the EP elections and before the start of a new Commission term. The emphasis of the Barroso Commission on better regulation might also lead to this situation. This view was echoed by a Council official (interview partner 27). However, several interview partners held that generally there were enough proposals to 'pick and choose' (interview partner 3, 7, 27). One interview partner (10) felt that there was 'not much choice, but some choice'. The fate of the working time directive under the upcoming British Presidency was often cited as an example of the Presidency's impact on the legislative agenda. It was widely expected that the directive would be shelved for the duration of the British Presidency (interviews 4, 9, 12, 20). According to interview partner 12, there was a 'benevolent conspiracy' of the present Luxembourg Presidency, the Commission, and the European Parliament to adopt the directive before it was the British turn at the helm, although the dossier itself was not a high priority of Luxembourg.

With regard to the impact on decision outcomes the accounts were mixed. One permanent representative (interview partner 9) explained that the Council Presidency determines what is taken into account in negotiations; proposals without the Presidency's acknowledgement usually have no impact. The Presidency drafts compromise texts, possibly with the help of some member states, with a view of reaching the necessary majority (and keeping the consent of the Commission), while

trying to take the concerns of all member states into account (interview partner 1, 4, 7, 10, 22, 25). It is the task of the Presidency to put discussions to an end (interview partner 18). ‘Member states want the leadership of the Council Presidency’ (interview partner 24). One interview partner (12) was ‘sceptical’ with regard to the Presidency’s influence on legislative decision, although he cited an example of a directive (on information and consultation of workers) that was revitalized due to the insistence of the Presidency. In his view, the Presidency had more room for manoeuvre in informal areas, for example in drawing up summit conclusions. This was confirmed by several interview partners (27). Some interview partners even argued that the central role of the Presidency in drafting the final texts might imply that the Council Presidency has to compromise its national position (interview partner 9, 27).

Despite the mixed accounts on the effect of the Presidency on decision outcomes, several interview partners confirmed that the Presidency enjoys an informational asymmetry (interview partner 1, 9, 10, 20, 24, 25, 27, 30). The Council Presidency is the ‘only period, when you know what’s going on’ (interview partner 9). Ordinary member states focus on limited aspects of negotiations, otherwise they occupy a passive ‘defensive position’ (interview partner 20). According to one Council official (interview partner 20), the Council Presidency knows 90 per cent of the member states fall back position. The informational asymmetry persists, although diminished, even in contentious cases and as the case moves upwards in the hierarchy (interview partner 10, 20, 24). Interview partner 9 also highlighted the informational asymmetry. The Council Presidency is in ‘the middle of things’. Besides its central position it benefits from the support of the Council Secretariat and holds special meetings with the Commission. Another counsellor (interview partner 25) mentioned the role of informal negotiations in

this respect: ‘not everything goes through the microphone’. Member states hold bilateral meetings with the Presidency (interview partner 24).

Referring to the co-decision procedure and in particular the conciliation committee, a senior official of the European Parliament (interview partner 26) opined that the Council shapes ‘a great deal’ of what is going on. The Council Presidency can slow down legislation, although that rarely happens. Examples were the port services directive and the cosmetics directive, the latter due to the concerns of the Danish Presidency with regard to animal testing. There is a cross-cutting net of ‘bits of information’; nevertheless ‘the people you talk to are the Presidency’. Another Parliament official also referred to the ‘tremendous amount of contact’ with the Presidency (interview partner 15). However, not only the Council Presidency is present in the committee meetings, ameliorating the informational asymmetry somewhat, although the preparatory triologue meetings are closed. The Council Presidency is usually able ‘to deliver’ the Council, and can make ‘half-reasonable’ suggestions with a high chance of adoptions unless a very important issue is concerned (interview partner 26). In contrast, according to one deputy permanent representative (interview partner 6) the influence of the Presidency has declined with the move to co-decision. As more actors are involved it becomes more difficult to ‘lead the process’. Enlargement has a similar effect in his view. This view was echoed by a Commission official, a national representative, and a Council official (interview partners 9, 14, and 24). One national representative referred to the lack of discussions in an enlarged Council, which would increase the need for coordination and leadership. In his view, the Council Secretariat could not fulfil that function (interview partner 31). Enlargement implied more efforts between minister’s meetings as *tour de tables*, in which all member states could voice their concerns, would be restricted to certain topics (interview partner 10).

The preparations for the Presidency start well in advance of the start of its term in office. Most member states start their preparation 18 months in advance, some even 2-3 years before their term begins. In their preparation member states define priorities and consult with the Commission on the status of pending proposals (interview partner 10, 21, 25, 31). The budding Council Presidency can push for specific proposals by the Commission according to one observer (interview partner 28). One Commission official (interview partner 11) commented on the role of the European Commission in the preparation of the member states for their term in office. He used the example of the 6th Environmental Action Programme and the Commission proposals during the Swedish Presidency to highlight how the Commission would anticipate the priorities of Presidencies. The Swedish Presidency was interested in environmental legislation and invested its resources accordingly. Another Commission official (interview partner 14) also emphasized that the Commission anticipated the changes in the Council Presidency. Using the example of the Finish Presidency in 1999, he commented that the Commission started preparing their cooperation on the legislation one year in advance.

Several members of national representatives referred to the differences between small and large member states at the helm. Whereas small member states benefit from shorter lines of communication and more flexibility, big member states enjoy a more advantageous level of staff and generally have more expertise which makes them less dependent on the Council Secretariat (interview partner 1, 7, 21, 22, 25, 32). One national representative from a small country maintained that smaller countries do have the necessary resources and are more effective in using the Secretariat, unlike bigger member states (interview partner 24).

Some interview partners commented on the new team Presidencies and the idea of a permanent, elected Presidency as discussed in the Convention (see last chapter). One deputy permanent representative (interview partner 6) expressed his doubts about the concept of team Presidencies based on his experience of the German, Finnish, and Portuguese cooperation for their Presidencies in 1999 and 2000: ‘Nobody knows what it means.’ The common working programmes of successive Presidencies amount to nothing more than an ‘eclectic’ list of national priorities. One permanent representative (interview partner 9) from a smaller country argued that an (elected) permanent Presidency would in his perspective be solely a representative of the big member states.

In sum, while my interview partners differed in their assessment of the Council Presidency they largely confirmed its procedural prerogatives and an informational asymmetry.

3.6. Conclusion

The Council is the needle’s eye of EU legislation. Decision-making inside the Council is governed by the high thresholds of its voting system, its fragmentation, and the Council Presidency. The Presidency can help to overcome the obstacles of high voting thresholds and fragmented decision-making. Scholars have frequently pointed to the potential effect of the Presidency but also noted countervailing forces. We can distinguish between the effect on legislative activity and decision outcomes. With regard to legislative activity, so far no comprehensive empirical study has been conducted. All possible positions on the effect of the Presidency on decision outcomes are represented in the literature. Some scholars argue that Presidency can pull decisions towards its preferred outcome. Others maintain that the Presidency has no effect.

Finally, some argue that the member state holding the Presidency has to make extraordinary concessions during its time in office. To validate the accounts of the Presidency's power given in the literature I conducted interviews with 32 practitioners in Brussels. Although most confirm the procedural privileges of the Council and the existence of an informational asymmetry in its favour, many describe the effects of the Presidency on legislation as limited.

What is missing in the literature is a theoretical account that clearly distinguishes between the effects of the Presidency on legislative activity and decision outcomes. Furthermore, the causal mechanisms linking the interests of the Presidency and EU legislation need to be spelled out in more detail. This would allow us to appreciate how and under what conditions the Presidency might affect legislation. Finally, so far definitive empirical evidence with respect to the existence of a Presidency effect is missing. Building on this chapter's description of the powers of the Presidency, the next chapter presents a theoretical account of the potential effect of the Presidency on EU legislation. The theory is subsequently tested by a case study and statistical analysis.

Chapter Four

A Theory of the Effect of the Council Presidency on EU Legislation

4.1. Introduction

The Presidency of the Council of Ministers has been created to provide leadership in the process of collective decision-making between member states in the Council. Thus, the Presidency enjoys the privilege and is charged with the responsibility of steering the Union's legislative agenda through the Council. This central position awards the member state holding the Presidency the opportunity of advancing its own interests. As I will argue below, we have to distinguish analytically between two effects that the Presidency might have on EU legislation. Firstly, the Presidency's central position might allow the member state holding the Presidency to advance legislation which is particularly salient to its government. Legislation important to the Presidency can be fast-tracked. The Council Presidency can push for agreements on a given dossier by scheduling extra meetings and devoting special efforts to finding feasible solutions acceptable to all (or a sufficient majority of) member states. Thus, if a member state thinks of a policy field such as environment as particularly important, it can use its term of office to increase the policy output in this area. Secondly, the member state holding the Presidency might benefit disproportionately from the decisions taken during its term of office. The Presidency has a prerogative of making proposals and might have an informational advantage. It can use these to influence the outcome of legislative

decision-making towards its own ideal position. The first relates to whether or not a decision is made, the latter to the content of this decision.

The Council Presidency exercises its leadership in an institutionally weak setting. Its powers are based on prerogatives and practices codified, if at all, in the Council's Rules of Procedure. It does not reign supreme in procedural matters. Thus, it cannot bend the legislative outcomes to its own interests with little or no consideration of the positions of the other member states. Furthermore, it does not enjoy formal powers entrenched in the treaties and guaranteed by a court. Its privileged position hence relies on the tacit consent of the other member states. I will argue that it is in the long-term best interests of member states to grant the Council Presidency the powers to steer the Union, including the ability to advance policy fields it deems particularly salient and a prerogative of making proposals.

The impact of the institution of the Council Presidency does not only depend on its institutional setting (as decided by all member states) but also on the interests of the member state holding the office. Outcomes are determined by institutions and preferences. To understand the effect of an institutional setting we need to scrutinize the interests of the political actors who constructed it and are operating within it.

The next section outlines the interest of member states in EU legislative decision-making. The following sections explain my theory of legislative leadership by the Council Presidency. I argue that the Council Presidency has a notable impact on legislative output (3.3.) and also influences decision outcomes in a disproportionate manner (3.4.). The latter section builds on general bargaining theory and explains which powers we can attribute to the Council Presidency and what effect this has on its sway

over the outcome of negotiations in the Council. Scrutinizing the mechanism of the Presidency's impact in detail allows us to appreciate the importance of confounding factors which can subsequently be controlled for in the empirical analysis. Finally, section 4 addressed the question of institutional design. All members of the Council have an interest in granting the Presidency the power to steer the Union, but they do allow the Presidency to dictate legislative decision-making in the Council.

4.2. Preferences of Member States and the Council Presidency

At the heart of politics lies its subject: 'policies determine politics' (Lowi 1972: 299). The motivations of political actors have been distinguished as either policy- or office-seeking (Laver and Schofield 1990: 36-39). An office-seeking actor is solely interested in the benefits that derive directly from holding office, such as a salary, reputation, media attention, etc. (Downs 1957; Riker 1962; Laver and Schofield 1990: 39-45). A policy-seeking actor, on the other hand, is driven by the desire to affect public policy according to its preferences (Laver and Schofield 1990: 45). These two basic motivations are deeply intertwined due to the nature of democratic systems. To varying degrees, depending on the type of political system, holding an office is a prerequisite to changing public policy. Thus, a policy-seeking actor needs to get into office first to have a substantial impact on government policy (Browne and Franklin 1973: 454). Vice versa, an office-seeking actor has to take the aspirations of the public with regard to changes in public policy into account. In order to reach office, politicians in representative democracies have to convince their electorate that they will be a worthy trustee of their interests. This implies that proposals politician will put forward are in line with the preferences of (a majority of) the members of his constituency (Downs

1957: 28). Thus, the actions of a political actor are primarily determined by policy preferences, be it his own or the ones of the persons to which he feels accountable.

The structure of policy preferences varies according to the nature of a given issue. Analytically, we can distinguish between policies that only have an effect on efficiency and policies that also involve (re-)distribution (Majone 1996). Distributive policies are individual decisions whose benefits are specifically targeted, such as grants, procurement decisions, or tariffs (cf. Lowi 1964). Because of overall budget constraints distributive policies have redistributive consequences. Regulation can remedy market failure, leading to more efficiency without necessarily affecting the allocation of values (Stiglitz 2000: Ch. 4). However, regulatory decisions often involve raising costs of compliance or limiting private decisions for a certain number of people and thus benefiting another group (Noll and Owen 1983; Noll 1987). Positive economic theory on interest groups in general assumes that they strive to affect regulatory decisions because of their (re-)distributive implications (Stigler 1971; Peltzman 1976; Becker 1983). Thus, both regulatory and distributive policies can have redistributive consequences, which in turns imply the potential for conflictual preferences.

In the European Union, distributive and regulatory policies comprise the main types of issues. Distributive policies are dominant in the field of agricultural and regional policy. By setting the parameters of agricultural tariffs, income support mechanisms, or the regional and structural funds, benefits are allocated to certain areas, firms, or individuals (Pelkmans 2001: Ch. 11 and 15). Once we consider the budgetary implications of distributive policies, we enter the realm of redistributive politics. Overall, net beneficiaries and net payer to the EU budget hold diametrically opposed interests. Generally, we can think of redistributive politics as a zero-sum game, where

one party's gains are the losses of another party. Thus, within the setting of distributive policies a member state will seek to maximize the amount of 'pork' it receives. The benefits from distributive policies can be used to further the link between the government and its constituency, making their re-election more likely. Thus, member states will seek to maximize the benefits of distributive policies that it receives minus the payments to the budget it has to make. When evaluating a new policy proposal, a member state compares the benefits from the present situation to the ones brought about by the new policy. It will only support the adoption of new legislation if the change of utility from passing the new policy is positive. Hence, the utility change UC in the field of redistributive policies is simply

$$UC = P - SQ \tag{1}$$

where SQ and P are two vectors representing the net benefits of the status quo and the new policy proposals respectively. In a distributive, short-term setting we would only consider the benefits deriving from a policy. Taking the net effect into account means that we have to include the costs (i.e., payments to the budget). Thus, a policy is represented by the benefits b accruing to a member state from one (or possibly several, i.e. b_1, b_2, \dots, b_n) distributive policies and the costs c borne by the member state, $P=(b_1, b_2, \dots, b_n, c)$.⁹

The interests of member states discussed so far are national interests. Member states will always seek to maximize their share of the pie. This is independent of the ideological orientation of the current government and the interests of the constituencies

⁹ I introduce the algebraic expression of these statements here as the measurement in chapter 7 builds directly on them.

on whose support it builds. There might be differences, however, in the direction in which the benefits from distributive policies are targeted.

Measures pertaining to the Common Market and policy fields such as environmental and social policy are predominantly regulatory in nature. By default, member states will seek to push their national status quo to the European level to minimize the costs of adjustment (Heritier, Knill et al. 1996). A further national interests lies in the competitiveness of domestic industries (Moravcsik 1993: 486-9). Again, these interests are not subject to change with a new government coming to power. Besides national interests, however, governments of member states will also pursue a partisan agenda based on electoral demands or ideological conviction (Scharpf 1996; Hix 1999: 72-7). In any case, the utility of a government depends on how close a policy comes to its ideal position. Thus, a government will support a new legislative proposal if it would change the otherwise prevailing position (i.e., the status quo) towards its most preferred policy. Accordingly, a government compares a new policy by the utility change it would affect given as

$$UC = |IP - SQ| - |IP - P| \quad (2)$$

where IP represents the ideal position of the government. A new policy would receive the approval of a government if the distance between its ideal position and the new policy is smaller than the one to the status quo. This would yield a gain of utility for the government.

$$|IP - P| < |IP - SQ| \Rightarrow UC > 0 \quad (3)$$

A policy proposal that would represent a move away from its ideal position ($|IP-P| > |IP-SQ|$), on the other hand, would not receive the approval of a government ($UC < 0$). If a proposal does not affect the utility gain of a government ($UC = 0$), it is indifferent between adopting a new policy and preserving the status quo. Not only does a government prefer some policies over others, the degree to which this difference in appraisal has an impact might differ according to the importance attached to a particular policy. A government, for ideological and electoral reasons, will consider some policies or policy fields to be more important than others (Rabinowitz and Macdonald 1989). Even when the changes to two policies are comparable in terms of their policy implications, they might be evaluated quite differently by governments with different ideological and/or electoral priorities. This can be incorporated by adding a factor to the formula by which governments evaluate a policy, i.e.

$$UC = (|IP - SQ| - |P - SQ|) \cdot S \quad (4)$$

where S is a non-negative scalar representing the importance (saliency) of a policy. Saliency cannot be negative, it expresses how important a particular policy is to the government. Note that this implies that the decision whether or not to support a given policy cannot be reversed if a government changes its evaluation of the importance of an issue. At most, a government can decide that a policy is not important ($S = 0$) at, leading to indifference with regard to any policy change ($UC = 0$).

A fundamental difference between regulatory and (re-)distributive policies is that the evaluation of the latter is solely based on the effects within a given policy, whereas the mere existence of regulation can be considered beneficial (or harmful) regardless of its specific contents. The effects of agricultural subsidies follow directly from the level at

which it is set and who will be eligible, etc. The worst outcome, from the perspective of farmers, would be if the level of subsidies would be set at zero. We would then speak of no policy of agricultural subsidies being in place. This semantic short-hand, however, masks a difference between (re-) distributive policies and regulatory policies. Government agencies, firms, and possibly individuals have to adapt to a regulation, incurring adjustment costs regardless of its contents (Noll 1987: 469). Furthermore, regulations often, directly or indirectly, set (minimum) standards for products or production processes. Technical product standards define parameters a product has to meet (for safety or quality purposes or simply to be comparable) to qualify as a marketable commodity. Process regulations, such as environmental or labour standards, restrict the manner in which commodities or services are produced. In the absence of (one uniform set of) regulations, firms would adapt their practices to reflect the competitive pressures on the market (be it on quality or price). By regulating this area, additional restraints (besides technical, economic, etc.) are put on production. All firms will have to adapt to these new restraints. Furthermore, some will be in a better position to adapt to a given set of regulations than others. This can be represented by the difference between the ideal position of an actor and the status quo. The difference in the effects of regulatory and (re-)distributive policies is particularly prevalent in a federal system such as the European Union with separate regulatory regimes but a common market¹⁰. Due to regulatory competition, in some instances and for some member states any regulation (at the European level) is better than no regulation. Member states in the European Union face regulatory competition (Sun and Pelkmans

¹⁰ In principle, it would be possible that an European regulation simply codifies an uniform status quo in all member states. Given the difference between regulatory approaches and level of standards between (the increasing number of) member states this is, however, unlikely.

1995: 68-75)¹¹. In the European Union, regulatory competition exists because of the common market founded on the free movement of goods and services.

In the European Community the free movement of goods between member states is enshrined in Article 28 (ex Article 30) since its creation in 1957. The European Court of Justice subsequently ruled in the *Dassonville* case that this provision applies to both domestic goods and imports. Furthermore, in the *Cassis de Dijon* case the Court laid the foundation of the principle of mutual recognition. Only if a state could justify a provision that constitutes an obstacle to the movement of goods with reference to mandatory requirements serving the public good could it be upheld by the Court (Craig and De Burca 2003: Ch. 14). Thus, the ability of individual member states to exclude products not in accordance with national regulations has been severely circumscribed after the *Cassis de Dijon* ruling in 1979. In its place the principle of mutual recognition has been enshrined, according to which products lawfully marketed in one member states can also be sold in all other member states (Pelkmans 2003, pp. 3-6). Given the production costs associated with high levels of regulations and the impossibility of barring products on the basis of national (process-related) regulation from the domestic market, a regulatory competition ensues in fields such as environmental policy (Majone 1992: 17-20; Scharpf 1999-9). Firms will shun jurisdictions with high environmental standards in favour of less costly regimes to the detriment of the environment (Schwab and Oates 1988). Faced with the prospect of firms re-locating to areas with lower regulatory standards, governments who rely on a good economic climate to win re-election will experience pressure to take steps to eliminate the competitive disadvantage

¹¹ The theoretical predictions on the consequences of different regulatory regimes differ according to several factors such as the nature of the regulation, the level of economic interaction and the institutional framework in which competition takes place (e.g., existence of trade barriers, total or minimum harmonization, legal settings). For an overview see Radaelli (2004).

of their domestic industries¹². In this situation, low-regulation countries would oppose European (re-)regulation whereas high-regulation country would seek it. Low-regulation countries would prefer no agreement (i.e., the prevalence of a multitude of national standards) to a European-wide regulation. In contrast, member states with high regulatory standards prefer any European (re-) regulation to the status quo to level the playing field. While high-regulation countries would ideally like to see high standards being adopted at the European level, common and binding legislation even at low levels would be preferable to them to a status quo of no European-wide regulation (Rehbinder and Stewart 1985: 210; Majone 1992; Scharpf 1996: 19-25; Holzinger 2003). Thus, the utility calculation of member states in (quasi-)federal system such as the European Union include their preference for harmonization and their preference for a particular outcome. This is important for the empirical analysis in chapter 6. We can assume in policy fields such as social and environmental policy that a regulatory leader would focus more on whether or not European wide regulations exist rather than on the exact content of these regulations. Thus, we can assume that an environmental leader would generally push for European environmental legislation and do not have to control directly for the difference between status quo and the new policy outcome. Environmental leader prefer any European wide regulation, which establishes a level playing field, to the status quo of no regulation and unlimited regulatory competition. This would be true regardless of whether or not governments of high regulatory countries are concerned with the effects of regulatory competition on the domestic economy, the symbolic effect vis-à-vis a 'green' constituency or environmental protection per se.

¹² It has been argued that the costs of complying with (high) environmental regulation comprise only an insignificant amount of total production costs (Vogel 1995). However, as competition increases any increase in production costs will become a factor. The empirical evidence so far is mixed (Woods 2006: 174-5). More important than the actual link, however, is the perception of governments that the mobile factors of labour and capital will shun markets ruled by strict standards.

As the remainder of this chapter will show, member states have a stronger effect on legislative activity and decision outcomes during their term in office. Whether or not it uses this potential for disproportionate gains potentially depends on a trade-off between immediate policy gains and the long-term effects of reputation. It can be argued that consideration of its reputation constrains the member state holding the Presidency in steering the Council according to its interests (Dinan 1999: 245-6; Peterson and Bomberg 1999: 35; Elgström 2003). The value of reputation depends on the prospect of sanctions due to 'misconduct'. However, it is accepted practice for the Presidency to focus on issues according to its national priorities (Sherrington 2000: 166). Furthermore, member states would not incur the costs of sanctioning a member state unless it would concern a major issue on which all member states agree. Finally, the short time horizons of politicians interested in re-election in the national arena would make long-term concerns of reputation secondary to the prospect of immediate gains in EU legislation.

Member states, generally, seek to maximize their benefits from European legislation by pushing for an agreement close to their ideal position. In some regulatory policy fields, such as environmental policy, occupational health and safety, or labour standards, having a European-wide regulation at all is beneficial for some member states. A government might feel particularly pressured to achieve breakthroughs in areas important to its constituency during its time at the helm. After clarifying the interest of the Presidency in legislative activity and decision outcomes, we can now discuss whether or not it enjoys a higher ability to successfully act on its interests during its time in office. The next section discusses the effect of the Presidency on legislative activity before I turn to the effect on decision outcomes.

4.3 The Council Presidency and Legislative Activity

The government holding the Council Presidency can push for agreements in the Council on a given dossier by accelerating formal and informal negotiations and clearing the legislative schedule according to its own priorities. It will have an interest in doing so as the Presidency affords it the rare opportunity to affect legislative activity in the Council (de Bassompierre 1988: 2; Hayes-Renshaw and Wallace 1997: 145). In order to use this opportunity, however, the government holding the Presidency has to spend resources. Time and staff are limited; prioritizing one item of the legislative agenda implies putting less emphasis on other items. The Presidency will only do so in a disproportional manner, if it attaches particular importance, or salience, to the dossier at hand. By devoting resources to a given dossier, the Council Presidency might discover a feasible compromise proposal that was otherwise not apparent.

The member states in their discussion on a legislative proposal face a problem common to all negotiations. Negotiated agreements leading to coordinated behaviour may allow individuals to jointly realize benefits that they could not achieve through unilateral, uncoordinated action (Buchanan and Tullock 1962). Agreements frequently represent a 'quasi-constant sum game', once a settlement of the dispute is achieved the relative benefits of the one party from the newly generated welfare is the loss of the other one (Raiffa 2002). Thus, we need to distinguish two aspects of negotiation, the production and distribution of benefits or, in other words, 'claiming and creating value'. This leads to the 'negotiator's dilemma'. On the one hand the parties involved have a common interest in arriving at an agreement, thus creating joint benefits; on the other hand the parties have diametrically opposed interests with regard to the distribution of the newly generated surplus as both are trying to maximize their share. The latter gives them an

incentive to engage in strategic manoeuvring (e.g., misrepresentation of preferences, threats, 'final' offers) that might ultimately risk the former (Samuelson 1984; Lax and Sebenius 1986: Ch. 2; Kennan and Wilson 1993).

Agreements reached by unanimity are also (positive) constant-sum in another respect. A party would not agree to a settlement if it was made worse off by the settlement compared to the situation that would otherwise prevail. Thus, decisions made by unanimity are pareto-optimal as all parties involved at least do not suffer from the agreement, that is benefits are ≥ 0 . If compensation was possible and transaction costs were non-existent, voluntary cooperation of rational, self-interested actors would always lead to the realization of all potential welfare gains among the parties involved (Coase 1960; Buchanan and Tullock 1962: 88-96). Issue-linkage might serve as compensation, when direct (monetary) transfers are not possible (Tollison and Willett 1979). However, political negotiations, just like market transactions, do involve transaction and bargaining costs:

'In order to carry out a market transaction it is necessary to discover who it is that one wishes to deal with, to inform people that one wishes to deal with and to what terms, to conduct negotiations leading up to a bargain, to draw up the contract, to undertake the inspection needed to make sure that the terms of the contract are being observed, and so on.' (Coase 1960: 15)

More generally, we can distinguish three types of transaction costs: search and information costs related to the gathering of information on potential transaction partners and their preferences, bargaining and decisions costs related to making gathered information usable and the actual bargaining process, and finally enforcement

costs due to incomplete contracts and the need to monitor the transaction (Furubotn and Richter 1998: 44-5)¹³. Due to the existence of transaction costs opportunities for common gains in welfare might be lost. This could be due to two reasons: the transaction costs might outweigh the potential gains or the parties involved might not be able to (jointly) provide the necessary resources because of problems of collective action (Olson 1965). The latter might be overcome by a ‘policy entrepreneur’ who steps forward to organize a collective decision as a means to further his own interests (Fiorina and Shepsle 1989: 32-4).

If the member state holding the Council Presidency is interested in (further) harmonization in a field such as environmental protection or labour standards, it would use its prerogatives as the chair to overcome the negotiators’ dilemma. The Presidency has three principal means at its disposal to facilitate agreements. Firstly, it can devote resources to discover a compromise solution that is acceptable to all (issue creation) or unlock gridlocked negotiations (issue subtraction). Secondly, it can deliver compromise proposals that serve as a focal point. Thirdly, it can serve as an ‘honest broker’ to overcome gridlocked negotiations.

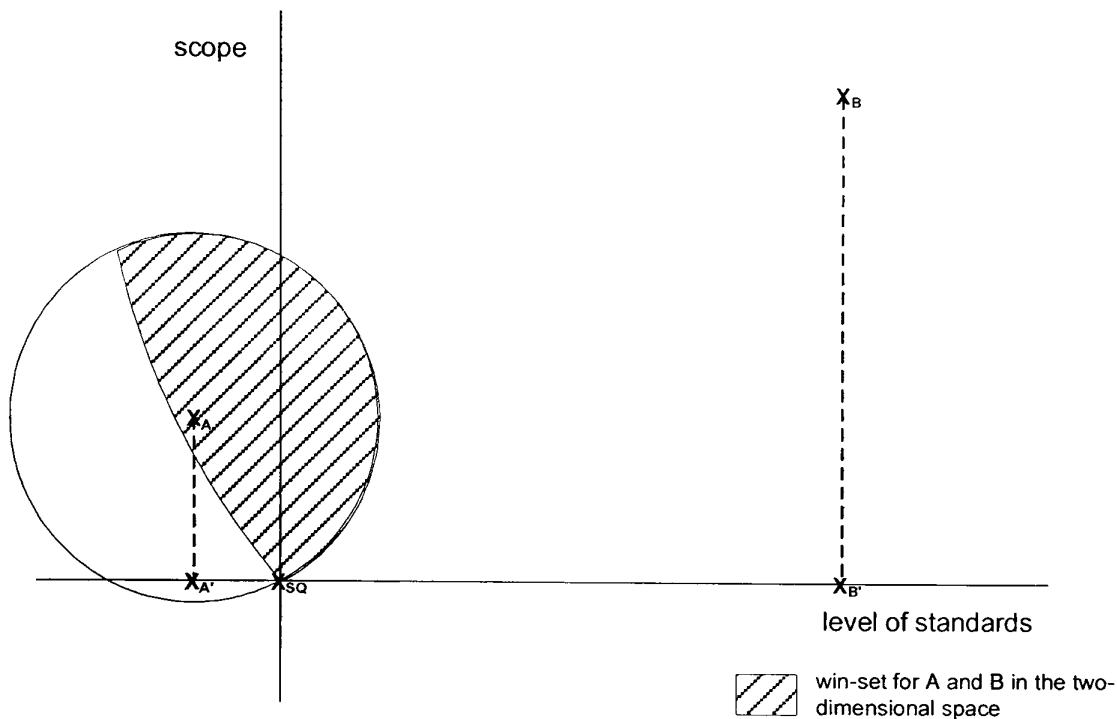
Every policy usually involves a multitude of issues. When deciding on a regulation, member states generally have to settle not only on the standards to be set but also on the scope of the regulation and the time from which (or for which) it is valid. The regulatory standards, furthermore, can be defined with reference to different methods and their levels can vary between different areas to which the regulation is applicable. In my case study on the regulation of noise at the work place (next chapter), for

¹³ The first two types of transaction costs are illustrated in a very informative manner by Raiffa (2002: Ch. 6). In the following I will ignore enforcement costs. It can be argued that the legal system of the European Union and the existence of the European Commission and the European Court of Justice provide sufficient mechanisms to ensure enforcement in most cases.

example, the level of noise can be regulated with or without taking protective measures into account. Discussions in the Council will, however, initially focus only on a limited set of issues. If agreement can be reached on the general content of a regulation, while being sufficiently detailed to allow a uniform application, negotiations will not venture into a discussion of the possibilities of exemptions, transitional periods, and sunset clauses. The latter, however, might help to enlarge the set of policies which would be acceptable to all parties involved.

An example might serve to clarify this idea. Consider a continuum representing potential policy outcomes for one issue. An example is a proposal for a directive on working time. Negotiations initially focus on the level of standards, that is the maximum of working hours allowed. This is represented by the horizontal axis in Figure 4.1. We can locate the ideal points of the parties involved and the outcome that would prevail if no agreement reached on this continuum. For simplicity's sake, we will only consider the case of unanimity and two parties. The ideal points of the negotiating parties represent the outcome from which they derive their highest utility. Country B's ideal policy (denoted by B') lies towards the right extreme of the continuum. In contrast, country A prefers policies that are closer to the left pole (at A'). Thus, B wants a stricter standard (a lower maximum of allowable working hours) than A. Assuming that their utility is single-peaked and symmetrical it diminishes at the same rate as we move away from their ideal point into either direction (Euclidean preferences). A party will only agree to a proposal if the proposal is closer to its ideal point than the status quo. The set of points closer to the ideal point than the status quo is the preferred-to-set of an actor. Let us pretend that a European regulation on working time already exists prior to the negotiations, which is denoted by SQ. B would like standards to be increased, whereas A would like them to be lowered. If the consent of all parties is

Figure 4.1.: Facilitating agreements by issue creation

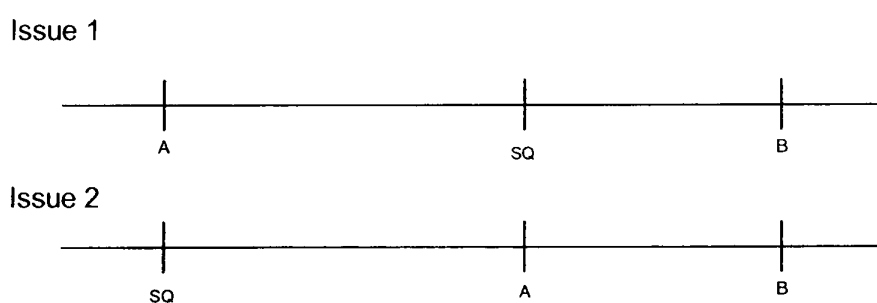


required, as is the case under unanimity, a potential outcome has to be included in the preferred-to-sets of all actors. Thus, the intersection of the preferred-to-sets of all actors forms the win-set, that is the set of points that are preferred by all actors to the status quo. If the win-set is empty, no agreement is possible and the status quo prevails (Tsebelis 2002). In our example, the two parties in the negotiations have diametrically opposed interests on the dimension 'level of standard'. A wants to increase the limit of time workers are allowed to work, whereas B want to raise the standards and lower the maximum working time. A policy cannot achieve both at the same time, hence the win-set in the unidimensional policy space is empty and no new policy will be enacted. The picture changes, however, when another aspect of the policy under discussion is included into the negotiations. Member state A might insist on a low standard because it is concerned with the effect the directive would have on a particular group of workers. For instance, the national health service of A might depend on doctors working long hours as defined by the directive, because they need to be on call for long periods. If negotiations are limited to the maximum working time, this would lead to a failure of

negotiations. By introducing the possibility of exemptions for certain groups of workers, however, the specific needs and interests of a member state can be accommodated in the drafting of new legislation. In the two-dimensional setting, A would like to see a policy including low standards that do not extend to all groups of workers. B, on the other hand, seeks higher standards that apply more generally. Both, however, prefer a policy with a broader scope than the status quo. This opens up the possibility for new legislation as the win-set (denoted by the hatched area) is non-empty.

Adding issues to ongoing negotiations can allow negotiators to find solutions in protracted negotiations by allowing for side-payments (Tollison and Willett 1979). Subtracting issues can have a similar effect. Negotiations may involve a very contentious issue which is holding up agreement, which would be possible on other aspects of the negotiations. ‘If one adds a sufficiently divisive issue to other, less contentious questions *and* one requires joint resolution of them all, then agreement may be rendered impossible.’ (Sebenius 1983: 300) If a negotiation involves an issue on which bargaining partners find it impossible to find agreement, removing it from the set of negotiated issues can unlock stalled negotiations. Consider a negotiation on two related but separate issues between two bargaining partners, A and B (figure 4.2.).

Figure 4.2: Issue Subtraction



A: ideal position of A, B: ideal position of B, SQ: status quo

The preferences of the bargaining partners are aligned on one dimension (issue 2) but irreconcilable on the other dimension (issue 1). Due to the nature of the issues it might not be possible to make side-payments or compensate for concessions on one issue by making concessions on the other one. For instance, the issues might affect different constituencies and/or ministers with different portfolios (and partisan affiliations). In general, bargaining partners might not be able to agree on one issue, effectively blocking the progress on other issues (for examples from international relations see Sebenius 1983: 300-4). In this situation, both issues can not be resolved jointly. However, by subtracting one issue (issue 1) from the negotiations, partial agreement (on issue 2) can be reached. The case study in chapter 5 will provide an example of a Council Presidency unlocking gridlocked negotiations by splitting a legislative proposal into several separate proposals.

In our examples, the solution to unknot the gridlock was relatively straightforward. However, often a compromise solution might involve more intricate issues. Furthermore, including more issues into negotiations or re-shaping the negotiation space by subtracting issues inevitably increase their complexity and the costs associated with resolving them, even if their inclusion allows reaching an agreement at all. Negotiators are not in the fortunate position of the analytical political scientists who can delineate the zone of potential agreement with a few strokes of a pen as we just did. Instead, the concerns that hold back governments from giving their approval to a given proposal need to be understood, potential solutions have to be discovered, other member state have to be sounded out on this newly raised issue, etc. Even in an information-rich setting, the exact locations of preferences are not common knowledge and hence negotiations are always costly. The Presidency can focus the attention of Council members on a given dossier by scheduling extra meetings and devoting more resources

(e.g., staff time at the General-Secretariat) to finding compromise proposals. It will do so, if a dossier is particularly salient to it. Thus, dossiers for which no agreement was in sight and negotiations that have been abandoned as hopeless cases can be revitalized by being put into the limelight by the Presidency.

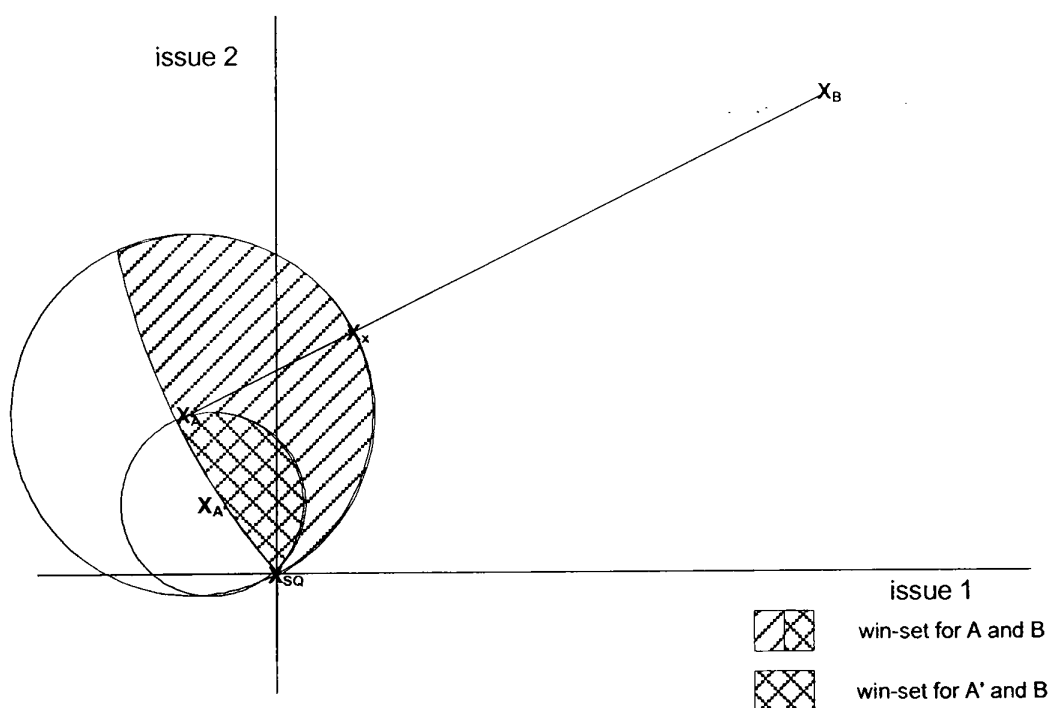
The Council Presidency can also deliver compromise proposals that serve as ‘focal points’ and act as an ‘honest broker’ to facilitate negotiations. Although the actors in our example have a common interest in reaching a new agreement (within the win-set to the status quo), they hold divergent interests with regard to its exact location. A’s ideal point lies within the win-set, so it would suggest to adopt a policy identical to its ideal position. Member state B, however, would prefer a more radical change to the status quo. It might suggest policy x, which is the point on the contract curve between A and B closest to B’s ideal position (Figure 4.1.). Two consequences follow from the fact that the win-set consists of more than one unique solution. Firstly, the two parties have to bargain about the exact location within the win-set in order to reach an agreement. Trying to reach an agreement as close as possible to their own ideal position, they will engage in a ‘dance of concessions’ (Raiffa 2002) and stand-offs to settle on the final outcome. Strategic manoeuvring like this is costly and might even lead to a failure to reach an agreement at all, forging the potential of a policy change beneficial to all parties. If a third party would introduce a proposal, after investigating the possible range of outcomes, this might serve as a focal point:

‘Somehow, out of this fluid and indeterminate situation that seemingly provides no logical reason for anybody to expect anything ... a decision is reached. [The expectations of the parties involved] must somehow converge at a single point. If we then ask what it is that can ... bring the negotiations to a close, we might

propose that it is the intrinsic magnetism of particular outcomes, especially those that enjoy prominence, uniqueness, simplicity, precedent, or some rationale that makes them qualitatively differentiable from the continuum of possible alternatives.’ (Schelling 1960: 70)

Instead of (potentially endlessly) exchanging proposals and counter-proposals, the negotiating parties might simply adopt this proposal. The bargaining costs might be higher than the loss incurred when accepting an outcome that is not as beneficial as the final result after extended bargaining might have been. Secondly, the bargaining partners could deliberately misrepresent their preferences to gain concessions, knowing that the parties are not perfectly informed about the preferences of each other. For example, in figure 4.3. A could pretend that its ideal point was located at A’ rather than

Figure 4.3.: Misrepresentation of preferences in negotiations



at A. Alternatively, it could convince B that its hands are tied as it can only approve of policy that would also make A’, a domestic faction (e.g., a powerful lobby group, a coalition partner in government, the party rank-and-file), better off than the status quo

(Schelling 1960). This would reduce the win-set in favour of its position. If both parties would engage in this kind of strategic behaviour, negotiations might fail as the win-set implied by the alleged constraints or ideal positions might be empty. Governments can miscalculate the amount of concessions they could get by the 'art of political manipulation' (Riker 1986) and risk reaching any agreement at all. The Presidency could overcome this dilemma by acting as an 'honest broker'. If the negotiating partners entrust the Presidency with information about their actual preferences (and potential constraints they face), it could draw up a feasible and fair compromise proposal¹⁴.

Reaching an agreement is a costly process. Due to limited resources such as time and staff, items have to be prioritized. The Council Presidency as a 'process-manager' (Tallberg 2004: 1002) is in a unique position to steer the Council's legislative agenda (Wallace 1985: 10-5; Kirchner 1992: 90-1) and to overcome the negotiator's dilemma in order to reach agreement in gridlocked negotiations. It not only chairs individual meetings, but routinely decides on the shape of the overall legislative agenda. The schedule of meetings and provisional agendas for each meeting are drawn up by the Presidency (Article 2 and 3 of the Council's Rules of Procedures) giving it some leeway to focus the attention of all participants on certain dossiers (Westlake and Galloway 2004: 35). The Presidency acts as the chair of these meetings at all levels of the decision-making machinery giving it further opportunity to fast-track some items (Kirchner 1992: 76 and 104). As the chair in the Council, the Presidency can, for example, structure the agenda to overcome isolated but vocal domestic opposition to a given dossier (de Bassompierre 1988: 25-6). Furthermore, the Presidency can interrupt meetings to go into 'confessionals', bilateral discussions between the Presidency and individual delegations. Confessionals can be used to establish the limits of a member

¹⁴ As the member state holding the Council Presidency is not an impartial third party, just as Bismarck, the original 'honest broker', was not indifferent to the eventual outcome of the Berlin conference in 1878, it might abuse this trust (see below).

states' negotiations position, put pressure on them, or offer inducements to broker a deal (Hayes-Renshaw and Wallace 1997: 147). Indicative votes can be used to put further pressure on individual delegations (Westlake and Galloway 2004: 41). The Presidency also has a prerogative to initiate formal votes (Article 11, Rules of Procedure). A decision of the Council can be reached by the Presidency establishing that a sufficient majority has been achieved (Westlake and Galloway 2004: 40).

Deciding on the format, frequency and content of (formal and informal) meetings allows the Presidency to prioritize topics (Kirchner 1992: 90-1 and 106; Tallberg 2003; Tallberg 2004). If a Presidency wishes to push a given dossier, it can schedule informal meetings to prepare the grounds, place the item prominently on the agenda of formal negotiations, and devote time for extensive discussions to it. It should be noted, however, that the Presidency does not rule supreme in procedural matters in the Council. Other member states can request for an item to be included in the agenda, a vote to be taken, and can put forward compromise texts (Westlake and Galloway 2004: 33-8). The Presidency does, however, enjoy a prerogative in steering the Council's legislative work. 'Presidencies can not switch programmes, but they can select certain priorities within a given parameter, or provide political impetus' (Kirchner 1992: 104). Hence, we can adopt the following hypothesis (H1):

H1: The more salience the Presidency attaches to a policy field, the higher will be the level of legislative activity in the Council on this topic.

The impact of the Council Presidency on the legislative agenda is influenced by the voting threshold and the type and number of proposals put forward by the Commission. It will be easier for the Presidency to push for agreement if a proposal can be adopted

by qualified majority (rather than unanimity) and if member states have some lee-way implementing the decision. If a proposal can be adopted by qualified majority, some member states can be outvoted. Thus, their interest need not be taken into account. Consequently, it is easier for the Council Presidency to put together a compromise proposal that can be passed. Similarly, if member states have more lee-way in implementing a decision, i.e., if the proposal is not directly binding but only with regard to its outcome, then it will be easier to gain their acceptance of a given proposal. Furthermore, if there are several proposals in the pipe-line, then the Presidency can pick and choose among them in accordance with the difficulty anticipated in resolving the issues. Practitioners have confirmed that there are usually enough proposals for the Presidency to cherry-pick (see previous chapter).

A prominent distinction between different Council presidencies is based on the size of the country in office. Big member states generally have a higher administrative capacity allowing it to promote initiatives and consider different view-points. In addition, they might also enjoy more clout in the negotiations (partly due to their greater voting power). On the other hand, it has been argued that ‘larger states tend to be cluttered with important interests to defend on almost every topic’ (Hayes-Renshaw and Wallace 1997: 147) weakening their ability to structure the legislative agenda during its term in office effectively. Thus, it is theoretically unclear whether or not the Presidency effect as described in Hypothesis 1 depends on the size of the member state holding the Presidency.

The Presidency has various means at its disposal to influence the pace of decision-making in the Council. Confounding factors are the availability of suitable proposals in the legislative pipe-line, the voting threshold, and the salience attached to an issue by

the Council in general. Although the distinction between small and big member states has been frequently pointed out in the literature, it is unclear how a member state's size relates to its impact on the legislative agenda during its term in office as the Presidency. Nevertheless it will be included in the statistical analysis (chapter 6).

4.4. The Council Presidency and Decision Outcomes

In bargaining, individual players can derive advantages from two sources

- the distribution of preferences and the status quo (disagreement point),
- institutional features of the negotiation process.

Only the last feature is fixed in the sense that it confers a permanent (although possibly conditional) advantage on its bearer. An actor might derive disproportionate benefits from an agreement because she is more powerful than the other bargaining partners or because she is simply lucky (Barry 1980). She might, for example, coincidentally hold the same interests as an overwhelming majority of actors. Alternatively, she might be less dependent on changing the current policy than her bargaining partner, forcing them to accept an agreement closer to her ideal position than theirs if they want to get an agreement at all. Finally, she might benefit from the (relative) impatience of her bargaining partners, who are willing to make extraordinary concessions to close the deal quickly. All these factors are contingent on the specific bargaining situation, although they might be systematically skewed towards a group of actors (Dowding 1991). Institutional features, in contrast, are permanent. The power they confer to a player is available to her, regardless of the specifics of the individual bargaining situation. The strength of this power might depend on contingent factors, but its presence does not.

I have shown in the preceding chapter that it has been claimed in the literature that the Presidency has veto or even agenda-setting power. I will discuss these claims and their consequences for the bargaining power of the Presidency in turn. The Presidency could also be likened to the Speaker in the US House of Representatives. As will become apparent, however, such an analogy would be misleading. Indeed, the bargaining strength of the Presidency is best described by the concept of proposal power. The Council Presidency does enjoy the prerogative of making proposals, but unlike the powers of gate-keeping or agenda-setting, this is not an absolute and unchallengeable right. And in contrast to the Speaker, it is not flanked by additional powers. It has to be taken into account, however, that proposal power relies on a low majority threshold and distributive policies. I will discuss how this affects the predictions of the model below. Throughout I am assuming that actors have Euclidean preferences with symmetric utility curves. Each actor i has a utility curve on the (potentially multi-dimensional) policy space, with an ideal point x_i for which i 's utility is $U^i(x_i) > U^i(x) \quad \forall x \neq x_i$. The utility an actor receives from a given policy declines with its (Euclidean) distance from the actor's ideal position. In other words, they prefer policies which are closer to their most preferred policy to ones that are further away (regardless of the direction).

4.4.1. Gate-keeping and veto power

An actor has veto power if her consent is necessary for a shift in policy. Unless a player has veto power, the other bargaining parties can overrule her if less than unanimity is required to change the status quo. An important distinction concerns ex ante and ex post veto power¹⁵. Ex ante veto power, or gate-keeping power, refers to the ability to prevent any new policy from being agreed. An agent with gate-keeping power can protect the status quo by not allowing any negotiations on policy alternatives. More formally,

¹⁵ McCarty (2000) also distinguishes between absolute and relative veto power.

consider a group of actors which can discuss a set of policies X (decision set), where one of the n alternatives is the status quo (x_1). In this situation, a gate keeper can restrict the decision set to the status quo ($X=\{x_1\}$). However, a gate keeper can not exclude individual alternatives from the decision set. If the gate keeper abstains from exercising her power, then any policy in the whole range of range could be chosen ($X=\{x_1, x_2 \dots x_n\}$). This is a purely negative power; the gate-keeper does not have any privileges once the gates are opened. In deciding whether or not she should open the gates, the gate-keeper will compare the expected outcome of negotiations to the status quo. She will allow discussions if the expected outcome is better to her than the status quo. In a uni-dimensional space and under majority rule, Black's (1998 [1958]) Median Voter Theorem makes this comparison a straightforward exercise. The Median Voter Theorem shows that in a uni-dimensional setting the outcome of a decision based on simple majority voting should be the position of the median voter (x_m). The gate-keeper can choose between keeping the status quo (x_1) by keeping the gates closed and the anticipated change to the median voter's position (x_m) upon opening the gates. Thus, the outcome will be either the status quo or the median's ideal point, depending on which one is preferred by the gate-keeper (Denzau and Mackay 1983). If the gate-keeper prefers the median voter's position to the status quo ($U^G(x_m) > U^G(x_1)$), then x_m will be the outcome. Vice versa, if the gate-keeper prefers the status quo to the median voter's position ($U^G(x_1) > U^G(x_m)$), then the status quo will prevail. In a multi-dimensional setting, however, only under very rare conditions can one outcome be determined as the outcome of negotiations (Plott 1967). A gate-keeper might be faced with the dilemma of having to decide on whether or not to open the gate without knowing if the outcome of open negotiations will be superior to the status quo (Denzau and Mackay 1983; Shepsle and Weingast 1987). Ex post veto power, in contrast, allows the actor to choose between the outcome of the negotiations and the status quo directly. This ensures that

the outcome is either the status quo or a policy that the veto player prefers to the status quo (Shepsle and Weingast 1987: 93).

The concept of veto power has been prominently applied to legislative bargaining in the U.S. House of Representatives. Shepsle and Weingast (1987) describe committees as ex post veto players. Cox and McCubbins (2005) assume that the majority party controls several offices (e.g., committee chairs, the Speaker) or groups of offices (the majority in the Rules Committee) that can block bills. In their earlier work, Cox and McCubbins (1993) consider the effect of the scheduling power of the Speaker in more detail. Building upon Shepsle's (1979) work, they note that the Speaker would veto any change in policy that would make him worse off than the status quo by not scheduling a vote on the floor: 'If the Speaker persists in not scheduling them, they will not be passed at all unless the House overrules the Speaker's scheduling decisions.' (Cox and McCubbins 1993: 235) In sum, the Speaker enjoys a (conditional) gate-keeping power which is subject to challenges. The Council Presidency's power could be likened to that of the Speaker. However, as I show below, this would be misleading.

The gate-keeping power of committees and the leadership in Congress is subject to potential challenges. Neither the committees nor the speaker possess the unilateral ability of preventing a bill to reach the floor. A discharge petition by a majority of the floor can force a committee to open its gates. The Rules Committee can also adopt a motion (special rule) to report a privileged resolution by vote of the majority party. Finally, the floor can suspend the rules by a two-thirds majority (Stewart 2001). Hence, a committee cannot unilaterally prevent a bill from being considered on the House floor. Similarly, the decision of the Speaker not to schedule a bill for floor consideration and thus preventing it from becoming law can also be circumvented. Through his control of

the Rules Committee via the appointment process, however, the Speaker has considerable influence on which bill is being advanced to the floor and can impede legislation which he opposes, particularly if this conforms to the majority party line.

Cox and McCubbins (1993: 238-9) argue that the degree to which this departure from an unchallengeable scheduling (and veto) power is relevant depends on the difficulties of organizing an override and the potential for retaliation. The higher the transaction costs of organizing a sufficient floor majority are, the stronger is the scheduling power of the Speaker. The floor also needs to overcome a collective action problem as the organization of the override represents a public good. Both of these factors are related to the size of the majority that is necessary to overturn the Speaker's decision. The Speaker's scheduling power might also be unchallenged because he holds additional powers (e.g., nomination to important committees) that he can use to retaliate against members of a majority overriding his schedule. The more flanking powers the Speakers enjoys, the more secure is his scheduling power.

It has been argued that the member state holding the Council Presidency enjoys gate-keeping power during its six months in office (see preceding chapter). The Council Presidency, however, does not have the formal authority to exclude an item from the agenda of a meeting, prevent a vote from being taken, or restrict the proposals on which a vote is being taken to its own. An item is included on a provisional agenda, which also indicates on which item a vote may be taken, if a member states or the Commission request it 16 days prior to a meeting (Art. 3 Clause 3 Council Rules). The final agenda is decided upon by the Council. Unanimity is needed to include an additional item (Art. 3 clause 7 Council Rules). The Council Presidency can initiate a vote. A vote is also taken upon the request of a member state or the Commission if it has the support of a

majority of member states (Article 11 clause 1 Council Rules). Thus, the Council Presidency is not endowed with the formal power to exclude items from consideration. Any member state (and the Commission) can request an item to be included in the discussion and ask for a vote. To sustain the latter, support of a majority is necessary. Unlike a discharge petition in the House of Representatives, however, this does not necessarily represent a collective action problem. Formally, there is no need to organize a majority to sign a petition. Instead, after requesting a vote it will become automatically apparent whether or not a majority backs this proposal. This ignores political reality to some degree, as a member state would probably want to know in advance what the consequences of its request are. A majority in the Council of Ministers in the period studied in the empirical parts consisted of up to 8 member states. The 2004 enlargement increased this number to 13; by 2010 this number might have increased further to 16. Sounding out 8, or even 16, colleagues on a proposal that probably has already been discussed repeatedly in working groups should not present an insurmountable obstacle. If there is a sufficient majority in the Council to pass a proposal, then it is very likely that one member state will find it to be in its best interest to take on the transaction costs of preparing a vote as a political entrepreneur. If there is not a majority anyway, gate-keeping power would be irrelevant anyhow. While the Speaker of the House has considerable additional powers besides his influence on the legislative process, the Council Presidency cannot grant or withhold prestigious and influential positions. National ministers and heads of state are accountable to their electorate (usually via their parliament), they do not serve at the pleasure of the Council Presidency.

A member of the group might also be granted additional informal powers or not be challenged in a leadership position because every member recognizes that it is in the

best interest of all (and everyone) of them to proceed in a coordinated manner. This will not, however, prevent a member state from pressing its interest to vote upon a given proposal if this is sufficiently important. I will discuss this argument below in more detail.

4.4.2. Agenda-setting power

The term 'agenda-setting' is ambiguous in political science as it has (at least) three distinct meanings in the context of decisions on a given topic. First, following Romer and Rosenthal (1978) formal theorists have used agenda-setting power in situations where an actor has monopoly proposal power (including gate-keeping power)¹⁶. Effectively, she can make a take-it-or-leave-it proposal as the other voters can only decide between adopting and defeating his proposal. The set from which outcomes can be chosen is thus restricted to the status quo and the proposal of the agenda setter (Miller 1995: 100-18; Tsebelis 2002: 33-4). More formally, consider a set of n policies $\mathbf{X}=\{x_1, x_2 \dots x_n\}$ where x_1 denotes the status quo. An agenda setter has a monopoly on making proposals; all other actors are restricted to vote for or against the agenda setter's proposal x_p . If the agenda setter's proposal does not get sufficient support, the status quo will prevail. Hence, the other players are effectively choosing between x_p and x_1 . If the agenda-setter has perfect information about all player's preferences, she would choose the policy closest to her ideal position which still gets sufficient approval by the other actors. Thus, whereas veto power only delimits the set of possible outcomes to the ones which are preferred by all veto players to the status quo agenda-setting power yields a unique outcome. This is incorporated in Tsebelis' veto player theory (Tsebelis 2002). In his work on decision-making in the European Union, however, Tsebelis has moved away from this strict definition of agenda-setting in the line of Romer and Rosenthal's

¹⁶ McKelvey (1979) uses the term agenda-setting referring to the ordering of proposals. However, if actors are sophisticated and anticipate possibly attempts of manipulation by the agenda-setter, this distinction practically disappears (Shepsle and Weingast 1984).

(1978) work and adopted a weaker notion. 'Agenda-setting players have power when it is impossible, difficult, or costly for decision-makers to modify proposals.' (Tsebelis 1994: 131). Thus, an agenda setter does not necessarily enjoy a monopoly on making proposals. Finally, Kingdon (1995), in parts of his framework, uses the term agenda-setting in a fundamentally different way. Agendas are defined by him as 'the list of subjects or problems to which [decision-makers] ... are paying some serious attention at any given time.' (1995: 3) An agenda-setter changes this agenda 'as it highlights its conception and its proposals, and makes attention to subjects that are not among its high priorities much less likely' (1995: 199), thus moving an item to the 'decision agenda' (202). Thus, an agenda-setter according to Kingdon changes the salience of an issue and not necessarily the actual outcome. Furthermore, an agenda-setter contributes to the specification of alternatives, narrowing the number of proposals that are seriously considered (1995: 200-1). Kingdon, therefore, primarily refers to the introduction or highlighting of issues and a specification of several policy alternatives, whereas formal theorists are concerned with a single proposal within a given policy space.

As demonstrated in the last chapter, several authors attribute agenda-setting power to the Council Presidency. Most prominently, Tallberg claims that the Council Presidency has both agenda-setting power a la Kingdon and in the rational choice tradition. In the vein of Kingdon's use of the term agenda-setting, Tallberg (2003: 6-8) explains that the Presidency can draw attention to a topic, put forward specific proposals, or adopt new institutional practices to highlight an issue. Furthermore, he argues that as part of its 'agenda-structuring' powers the Presidency can decide on what proposals are voted upon in which order (Tallberg 2003: 10). This implies agenda-setting power in the tradition of formal theorists. Again, the Council Presidency does not have the formal authority to make 'take-it-or-leave-it' proposals. All member states can put forward

proposals for discussions and request a vote. Furthermore, proposals by Council members other than the Presidency do not have to pass a higher voting threshold, making it more difficult for them to set the agenda.

4.4.3. Proposal Power

The power to propose refers to the disproportionate payoff the actor making the first proposal can achieve even if he does not enjoy gate-keeping power for the whole bargaining process. Baron and Ferejohn (1989) capture the advantage the first-mover enjoys by modelling asymmetric probabilities of recognition. The strength of proposal power depends on the voting threshold as the first-mover in effect receives the benefits which otherwise would have gone to the outvoted members. If actors cannot be certain that they will be recognized to make a proposal, the first-mover can benefit disproportionately even if amendments (i.e., counter-proposals) are possible, although the benefits of the first-mover are diminished. McCarty (2000) generalizes this approach and includes not formally derived prerogatives of proposal power, which could be due to seniority, expertise, the chairmanship, etc.:

The agenda-setting power discussed so far crucially depends on its inclusion of gate-keeping power: proposals are considered under a closed rule, i.e. they cannot be amended, and the agenda-setter has a monopoly on making proposals. Baron and Ferejohn (1989a, b) argue that in a distributive setting the actor who has the right to make the first proposal benefits disproportionately even under an open rule where other voters might amend the proposal of the agenda-setter. In their model a decision-making body has to decide on how to partition 1 unit of a good. If they fail to agree, everybody receives 0. A voter is assumed to vote in favour of an alternative if he is indifferent between the alternative offered and the continuation value. The continuation value is the

value he expects from moving to the next session. It is assumed that voters are impatient and therefore the continuation value, c , is discounted by a factor δ , where $1 > \delta > 0$. The continuation value is determined by the benefit a voter would receive if recognized times the probability of being recognized. Let us consider the case of a finite (two-session) agenda with n voters, an equal probability of being recognized, and majority rule. Under the closed rule the voters can only support an alternative (and receive their part of the good if this is done by a sufficient majority) or vote against it, whereby the committee moves to the next session and the benefits are discounted. In this case the continuation value can be derived by noting that in the last session the member recognized receives the complete unit of the good. He can offer all other voters 0 and (by assumption) they will still vote for his alternative as they will receive 0 otherwise as well. In the first session a member might speculate on being recognized in the next round and receiving 1. As his chances of being recognized are $1/n$ his discounted continuation value amounts to δ/n . The voter recognized in the first round needs to offer a sufficient majority of voters this value if he wants his proposal to succeed. He, therefore, receives $1 - \delta(m-1)/n$, where m is the number of voters forming a sufficient majority. This result also holds true for infinite sessions (Baron and Ferejohn 1989a: 1189-91). Contrast this to agenda-setting power. Rather than having to offer a sufficient majority their continuation value, which takes the possibility of later recognition into account, the agenda-setter only has to make a sufficient majority better off than the status quo. In a distributive setting, this means giving them the smallest non-zero allocation possible. Thus, agenda-setting power has generally much stronger distributional consequences than proposal power.

The share Sh which the first-mover receives under a closed rule where the approval of m of n members is necessary to pass legislation is given by

$$Sh = 1 - \frac{m-1}{n} \delta \quad (5)$$

When the majority rule approaches unanimity (and δ approaches 1) the partition of the good will approach a uniform distribution. Otherwise the initial proposer receives the share of the members not necessary to form a minimal winning coalition.

Under an open rule the initial proposal might be amended within the same session. After an initial proposal is made another voter is recognized (with probability $1/(n-1)$) and can either move the previous alternative (which leads to an immediate vote and, if successful, a distribution of benefits) or an amendment. In the latter case the amendment is voted against the initial proposal and the winner becomes the new motion. To be voted upon, however, it needs to be moved by the next member recognized. While under a closed rule the initial proposal only needed to offer a sufficient majority of members their (discounted) continuation value, the proposal under open rule needs the support of the member recognized in addition to majority support. If the initial proposer would want to make sure that his proposal is moved and accepted (because the discount factor is low) he would have to offer all members their (discounted) continuation value. As this is expensive (even though a low discount factor makes votes ‘cheaper’), the initial proposer might choose to offer the discounted continuation value to p other voters, where $n > p > m$. If the majority necessary to move a proposal approaches unanimity (and δ approaches 1) the partition of benefits will approach a uniform distribution. The power of the initial proposer depends on the ability of a majority to move a proposal. The initial proposer will receive at least as much as any other member; therefore recognition (or the power to propose) is still valuable. Its benefits are, however, smaller than under a closed rule.

In analyzing the powers of the Presidency, the concept of proposal power offers the most appropriate conceptual tool. Unlike gate-keeping, veto, and agenda-setting power it is not derived from an absolute right, but rather describes a prerogative that can be challenged. If a proposal is not adopted in the first round, other actors are free to make their own proposals. As explained above, the Council Presidency does not have a formal power of either barring items from the decision-making process or limiting votes to its own proposal. It is also not in the interest of the other member states to grant these powers informally as will be argued below. The Council Presidency, however, does have the prerogative to make the first proposal as attested by practitioners in Brussels (see last chapter). It can also call immediately call for a vote to be taken. If its proposal does not attract a sufficient majority, another member state can request a vote for a different proposal. Council members other than the Presidency need a majority to support their request for a vote. As this (simple) majority is strictly smaller than the voting threshold by which legislative decisions are taken, a proposal that does not get sufficient support to be voted upon also would not be adopted. The time it takes to decide on whether or the request to vote on a particular proposal commands majority support can be neglected. Hence, the defeat of the first-mover's proposal in the first round is followed by a vote on a (randomly selected) proposal from another member. Thus, the procedural power of the Council Presidency can be modelled as proposal power under a closed rule. In the EU of 15 member states from 1995 through 2003 62 out of 87 votes were necessary to pass legislation by qualified majority. In the period 1986 through 1994, before the 1995 enlargement in an EU with 12 members, the voting threshold lay at 54 out of 76 votes. In the first period, a minimal winning coalition consists of 8 out of 15 member states, yielding 63 votes. This excludes all the member states that hold less than 5 votes. If Luxembourg, with its mere 2 votes, should hold the

Presidency, the consent of 9 member states (including Luxembourg) is needed to pass legislation under qualified majority. Thus, the Council Presidency needed the support of 7 or 8 other member states in the EU-15. Using the conservative scenario, in which the Presidency needs to buy out 8 other members, its share is then given by

$$Sh = 1 - \delta \frac{8}{15} \quad (6)$$

As impatience decreases this value can be calculated as

$$\lim_{\delta \rightarrow 1} Sh = 0.4\bar{6} \quad (7)$$

Using an equal split as a baseline, proposal power increases the share for the Council Presidency by 0.4, which represents a 7-fold increase.

Before the 1995 enlargement, 7 out of 12 member states (yielding 58 votes) formed the minimal winning coalition. This also holds true if Luxembourg has the Council Presidency¹⁷. The Council Presidency needs to ‘buy out’ 6 other member states. Hence, as impatience decreases the share of the Council Presidency approaches 0.5. If instead the unit had been split equally, each Council member would have received a share of 0.083. The Presidency’s proposal power increases its share by the factor 6.

Unanimity rule decreases the impact of proposal power drastically. Neglecting the effect of impatience, the share of the Council Presidency using its proposal power in the EU-15 is given by

¹⁷ Besides the four member states who have 10 votes and Spain with its 8 votes, 6 more votes are needed to reach the threshold of 54. This can be accomplished either by two member states with 5 votes or one member state with 5 votes plus Luxembourg’s 2 votes.

$$\lim_{\delta \rightarrow 1} (1 - \delta 14/15) = \frac{1}{15} = 0.0\bar{6} \quad (8)$$

This implies a uniform distribution of benefits. Unanimity ensures that, *ceteris paribus*, the concerns of all members are equally taken into consideration. A member does not find itself outvoted with the share it would receive by an equal split being divided among the other members.

The Council Presidency as the chairman, besides being the first-mover, might also have a higher probability of being recognized in later rounds of negotiations. The effects of this can be considered by modelling a bargaining situation in which the gate-keeping power of the first-mover extends beyond the first round (Baron and Ferejohn 1989b: 355-6). If the first proposal is not accepted, the floor is not opened for a randomly selected member. Instead, agenda power reverts back to the Council Presidency. Consider a three-period, three-person negotiation under majority rule. The continuation value in the penultimate period is determined by the recognition rule of the last period. For the case of a random selection, this is given by $1/n$, discounted by the factor δ . In contrast, the continuation value before the penultimate period (period one in this example), is based on the probability of receiving an offer as the right to make a proposal stays with the member making the initial proposal. This probability is determined by the majority threshold. Under majority rule, the continuation value at period one is $1/2$ of the expected value in the next period, discounted by the factor δ . To reach an agreement, the maker of the proposal needs the support of either one of the other two actors. Hence, both have an equal chance of receiving an offer. This can be extended to any minimum number of parties whose consent is needed for an agreement and any number of periods k , for which the initial proposer (still) enjoys gate-keeping

power. The Council Presidency's share approaches 1 as k becomes very large. The distributional consequences of proposal power are identical to agenda-setting power only if it enjoys gate-keeping power virtually throughout the whole process. This underlines the difference between proposal and agenda-setting power discussed earlier.

The power to propose when (qualified) majority voting applies grants the first-mover disproportionate benefits legislative decision-making. Both agenda-setting power and proposal power require the proposer to take the preferences of at least a majority into account. However, an agenda-setter can put the stark choice to other members of accepting his proposal or being stuck with the status quo. Proposal power, on the other hand, offers the possibility of more attractive alternatives in the future which forces the initial proposer to make more concessions. Thus, the preference configuration is an important confounding factor of proposal power. The Council Presidency cannot preclude alternative proposals from the discussion, but it can make the first proposal. Hence it has proposal power, not the stronger agenda-setting power.

3.4.4.1. Proposal power in a spatial setting

The Baron/Ferejohn model was developed for distributive 'pork barrel' politics. Some of its assumptions do not hold for the case of regulatory politics which imply a spatial setting. Proposal power in a spatial setting is more constrained than is the case in a distributive context.

Baron and Ferejohn assume that all actors prefer a change to the status quo. The utility the actors derive from the status quo equals zero. A proposal including any positive amount of 'pork' for an actor will win his support. In a spatial setting, the status quo does not have to be perceived as the worst possible outcome by all (or any of the)

actors. Increasing the value of the status quo decreases the rent of the proposer (Banks and Duggan 2006: 62). In the distributive setting of the Baron/Ferejohn model, the proposer can minimize the share handed out to a sufficient number of members to build a minimal winning coalition. Only the minimum number of actors needed to adapt the proposal, when the vote of the proposer is included, will be considered by the proposal. Furthermore, all voters have the same number of votes and have thus identical value for building a minimal winning coalition. In the spatial context which is relevant for regulatory politics, however, the choice of coalition partners is constrained by the distribution of preferences. In the extreme case, there might not even be a sufficient majority in favour of a change of the status quo. Even if there is, the proposer still faces limited options compared to a distributive setting. She can only seek the support of other actors with similar preferences. In the case of (qualified) majority rule with weighted votes, this could mean that more member states need to be included to get a sufficient number of votes. Consider a scenario in which the member states are divided along the line of their population size and Luxembourg holds the Presidency. With big and smaller member states having diametrically opposed interests, Luxembourg has to build a larger coalition to pass the voting threshold than would be the case if all big member states would have interests similar to the one of Luxembourg. This highlights the importance of the preference configuration to the impact of proposal power in a spatial setting.

In sum, proposal power generally implies disproportionate benefits from decision outcomes for the Council Presidency. It is a weaker power than agenda-setting. An important confounding factor is the voting threshold and the preference configuration. Both of these factors will be controlled for in the statistical analysis in chapter 7.

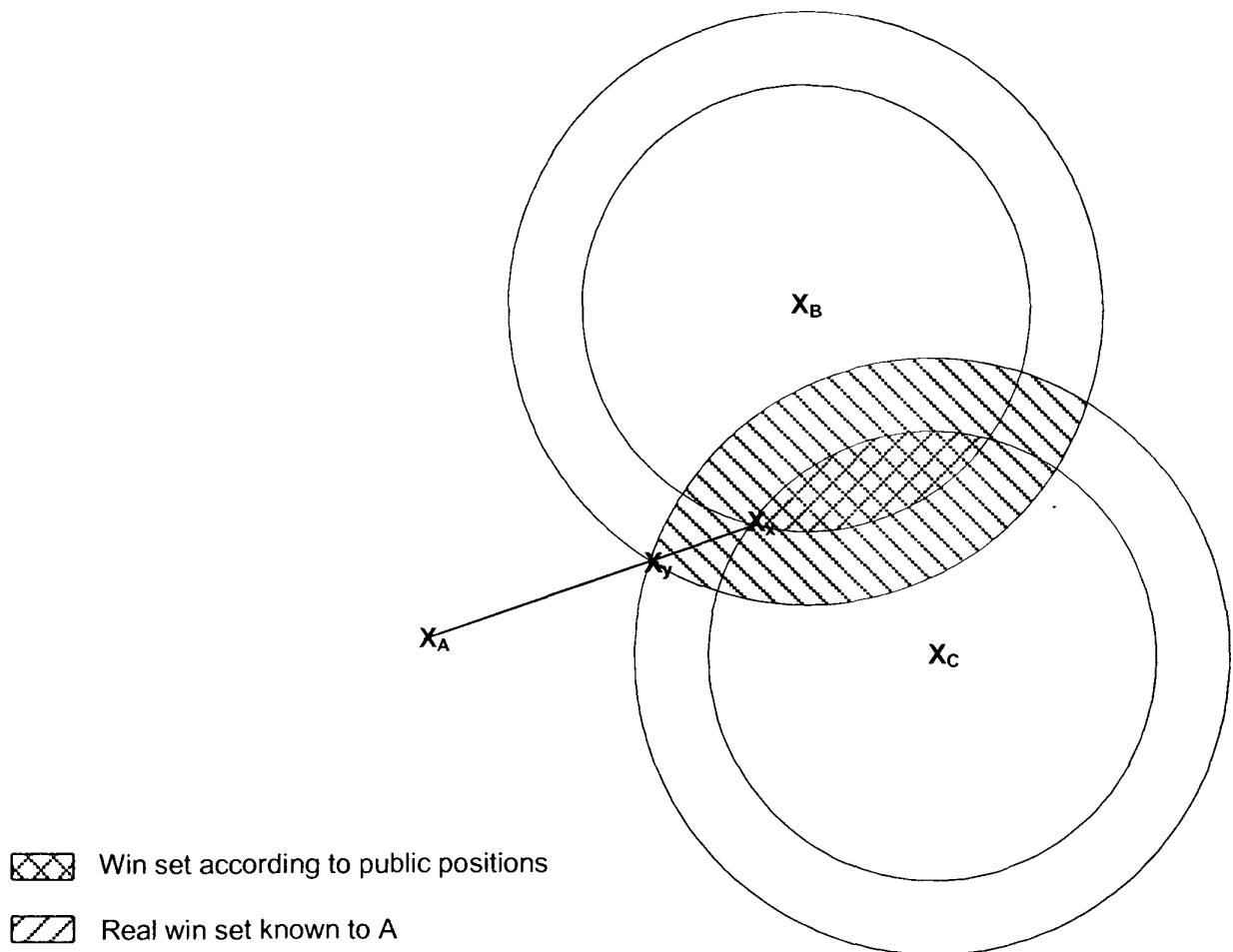
4.5. Informational asymmetry and decision outcomes

Besides the first-mover advantage a player can benefit from an informational asymmetry. As argued earlier, member states might entrust the Presidency with private information to reach mutually beneficial decisions. Asymmetric information generally raises the bargaining power of the actor with private information (Muthoo 1999: 271-88): ‘Knowledge is veritable power in negotiations and enhances the bargaining strength of the better informed.’ (Muthoo 2000: 165). Knowing what concessions a bargaining partner is willing to make allows one to make offers to maximize one’s private gains. Additional procedural advantages compound this effect on the distributive outcome of negotiations. Note for example that the basic Baron/Ferejohn model discussed above assumes a situation in which the proposer knows exactly what offer to make to gain the approval of individual members. Members will approve proposals that are more attractive than the alternative. In a distributive setting, members will always prefer more ‘pork’ to less. If the alternative to adopting a proposal is not receiving any ‘pork’ because the status quo of no spending prevails, then even the tiniest allocation will suffice to get the approval of a member. Thus, the proposer can maximize the leverage it gets from being recognized to make a proposal by making a sufficient majority just a little bit better off than their continuation value. In a regulatory setting, matters become more complicated however. A proposer cannot simply assume that all members will prefer any new outcome (i.e., any non-zero allocation in the distributive setting) to the status quo (i.e., no additional income in the distributive setting). Knowing what proposals would be (barely) acceptable to a member thus becomes a bargaining advantage.¹⁸

¹⁸ As I have explained above, the Council Presidency only has proposal power. However in a regulatory setting the same logic applies to proposal power. Whereas in a distributive setting the preferences of all members to maximize their share are known, this is not necessarily the case in a spatial setting.

For the sake of ease of exposition, I will illustrate the effect of informational three veto players A, B, C with Euclidean preferences as depicted in Figure 4.4. A has agenda-setting power and benefits from an informational asymmetry. For players B and C there are two indifference curves denoting the policies which they would prefer to no agreement. For the sake of simplicity we can assume that player A would support any change in policy. The smaller circle represents the publicly stated positions of B and C, whereas the larger circle, encompassing more proposals that would be acceptable, represents their true positions. The difference between the circles is the concessions they would be willing to make in negotiations. Because of an informational asymmetry,

Figure 4.4.: The Distributive Consequences of Informational Asymmetry



only A knows about the concessions B and C are willing to make to adopt a new policy. Thus, as far as B and C are concerned the win-set to the status quo only comprises the cross-hatched area whereas A knows that both B and C are willing to make further concessions. Hence, the real win-set is the larger simple hatched area. A can use this knowledge to gain concessions and move the final outcome closer to its own ideal

position. In particular, as an agenda-setter it will propose y , the proposal closest to its ideal position inside the true win-set, rather than x . Thus, A benefits in distributional terms from having superior information and proposal power. This leads to the second hypothesis (H2):

H2: The Council Presidency benefits disproportionately from decision outcomes

In sum, the Council Presidency can benefit from a procedural and/or an informational asymmetry in legislative decision-making. Indeed, superior information would help the Presidency to maximize the bargaining advantage it has due to its proposal prerogative. Important confounding factors are the voting threshold and the preference configuration. The next section explains why member states would accept the bargaining advantage of the Presidency.

4.4. Institutional Design: The deliberate limits of the Presidency's Powers

The powers of the Presidency rest on the acquiescence of the member states. The privileges of the Presidency are not enshrined in the treaty (Tallberg 2003: 5) and hence guaranteed by a court, but rely on member states granting them as in their best (long-term) interest.

In general, political actors confer authority to an individual to secure the benefits they receive through better coordination, increased production, and the provision of public goods. Hierarchy can be an efficient means to utilize gains of cooperation (Miller 1992: 18). Members of a group grant powers to their leaders to realize the benefits of leadership (Calvert 1992: 25; Miller 1992). Thus,

‘leadership is an institutional arrangement created by a P, or a collection of Ps..., in order to obtain some objective more efficiently, more effectively, or with higher probability than he, or they, could without the coordination and enhanced productivity provided by the leadership institution.’ (Fiorina and Shepsle 1989: 20)

Leadership represents a solution to coordination problems and reduces the transaction costs of bargaining by providing a focal point and a conduit for group negotiations. Even if all members of a group aspire to the same goal (i.e., have the same payoff-structure), the presence of several potential outcomes implies that to resolve an issue requires a certain effort of coordination (Calvert 1992: 9-10). A leader can offer a shortcut through the potentially protracted process of agreeing upon a specific outcome by providing a focal point, on which expectations can converge (Schelling 1960; Garrett and Weingast 1993). If the member of the group value different outcomes differently, while still benefiting from cooperation (i.e., reaching an agreement), the potential for costly delays increases. Thus, the value of an agreement diminishes because members, while negotiating the specific decision, forego the opportunity of reaching jointly beneficial agreements in other areas. In addition, the delay induced by the need to accommodate different positions implies that the bargaining partners cannot enjoy the benefits of the agreement (Binmore, Rubinstein et al. 1986). For example, if the member states cannot agree on the exact level of subsidies in a given field, there will be none. If the positions of the member states are not commonly known, the risks of costly delays and bargaining failure increases even more (Sutton 1986: 720; Farrell 1987: 115). To maximize their individual gains, member states will be tempted to misrepresent their preferences, while trying to gain insights into the preferences of

others (see above) and trying to devise and implement commitment strategies to advance its bargaining position (Luce and Raiffa 1957: 91-2). In this situation,

‘[t]he problem of distributing the gains from efficient cooperation will be so daunting that the bargainers might lose a large amount of the potential gains that ensues. The spectre that is raised is one of bargaining failure – the loss of those very efficiency gains that motivate actors to go the bargaining table in the first place.’ (Miller 1992: 49)

In sum, bargaining – even under the best of circumstances – is a costly endeavour. Indeed, the transaction costs incurred by the resources (e.g. time) spent and opportunities lost in bargaining are ‘essentially limitless’ (Miller 1992: 47). Thus, group members have strong incentives to reduce these transaction costs and limit the potential for bargaining failures by creating leadership. This, invariably, includes granting special powers to a member of the group, which can be misused by the leader. However privileges are only granted insofar as they are beneficial for the group. As Randall Calvert explains:

‘Because the leader produces group benefits that are degraded when leaders are overthrown or weakened, and because the realization of those benefits requires responsiveness on the part of followers, the leader does indeed have power.’
(Calvert 1992: 19)

In other words, the power of a leader relies on his ability to create value for the group members. Powers are given to a leadership if and insofar as they help the group to achieve goals that they would have been unable to achieve without the coordination of

leadership and the enhanced productivity that ensues (Fiorina and Shepsle 1989: 20). While it is in the interest of group members to grant power to a leader, it is not in their interest to allow the leader to abuse his powers. Thus, group members will strive to limit the powers of the leader as far as possible while still creating efficiency gains. Procedural controls can limit the possibility of leadership manipulating outcomes for its own gains (e.g., Shepsle and Weingast 1984). A similar effect can be reached by limiting the time period for which special powers are granted and rotating the office on an equal basis.

Member states have an interest in enhancing the productivity of the Council without letting a leadership exploit their privileges in terms of decision outcomes. The Council has to attend a multitude of legislative proposals. Each proposal raises several issues. The technical and political complexity of the discussions means that the potential for common gains in a given dossier might go unnoticed. In this situation, a central coordination mechanism allows negotiations to focus on a set of particular proposals. Synchronizing the attention given to particular dossiers by the member states and imposing order on the negotiations allows for a more efficient way of conducting legislative decision-making. By creating the office of a Council Presidency and granting it the prerogatives of prioritizing items and making compromise proposals, the member state ensured that they would get the maximum benefit from negotiations.

Limiting the powers the Presidency enjoys and by using a system of rotation, a member state is barred from becoming a 'policy dictator'. The member states could have created a much more powerful Presidency office, e.g. by granting it gate-keeping or agenda-setting power. However, to prevent or limit abuse of presidential powers they choose a limited form of proposal power. Furthermore, they abstained from enshrining these

powers to the treaties and granting the Presidency formal powers (see also Warntjen forthcoming).

Governments do not have to ‘accept the exploitation of the Presidency office in the present because they will get their opportunity in the future’ (Tallberg 2003: 16). The institutional design empowers the Presidency to search for viable compromise proposals but constrains its powers to manipulate outcomes. The efficiency of decision-making is thus enhanced while the possibilities of a biased redistribution are limited. Thus, it is not necessary to rely on a grand vote-trading scheme, where member states’ governments are in effect ‘policy dictators’ in turn. Unless the exchange of votes (here: the acquiescence in the unchecked powers of the Presidency for a limited period) takes place simultaneously, member state governments will be tempted to renege on their promises (Brams 2003: 199-206). Having exploited all other member states to the fullest degree during their term in office, they will be hesitant to allow other member state to exploit them once they are not at the helm anymore. Firstly, political actors tend to discount the future. Secondly (and more importantly), governments are unlikely to be still in power when their member state takes up the Presidency again. Hence, they cannot be punished by other member states for not following through on their promise to accept the unchecked rule of other member states’ during their term in office. Thirdly, some governments might not even benefit from being at the helm. Fourthly, the price to pay for being more than *primus inter pares* for six months increases with the number of member states. In the club of fifteen member states, the policy gains made while being in power would have to be worth more than fourteen times the policy losses sustained during the rule of the other member states.

Tallberg (2003: 16-7) quotes a Commission official who argues that the Presidency hands out 'bitter bills' every day. Ordinary Council members 'suffer for six years' because they will look forward to their own turn at the helm in the seventh year when they 'get to bash the others'. However, most governments cannot count on still being in office in the seventh year. In an enlarged Union, furthermore, the period of 'suffering' has nearly doubled. The price to pay for being more than *primus inter pares* for six months increases with the number of member states and the length of the interval between holding the Council Presidency. In the club of 27 member states, the policy gains made while being in power would have to be worth more than the policy losses sustained during the rule of the 26 other member states if this grand vote-trading scheme should work.

To ensure efficient negotiations member states will grant the Presidency some procedural prerogatives in legislative decision-making. However, to prevent the abuse of these powers by the Presidency member states will curtail these powers. The powers of the Presidency rest on the acquiescence of the member states and there is a limit to which they will grant them. Thus, member states refrained from giving agenda-setting power to the Presidency and established a system of rotation with short terms in office.

4.5. Conclusion

The institutional design of the rotating Presidency allows the Council members to benefit collectively from the leadership of the Council and the member states holding the Presidency to benefit from the possibility of realizing its legislative priorities without blatantly overriding the concerns of other member states. It is not the result of a grand bargain, in which member states in turn enjoy extraordinary powers, as the work

by Tallberg implies, but represents the attempt of the Council to reap the benefits of leadership without allowing its abuses. Nevertheless, the Presidency does have a louder voice than other member states during its term in office and can use its procedural privileges and informational asymmetry to influence decision outcomes in its interest.

Member states are generally interested in seeing outcomes close to their ideal positions. In some policy fields, such as environment and social policy, high regulation countries would prefer any European regulation to the persistence of a national patchwork. Thus, we can analytically distinguish between legislative activity and decision outcomes. The Council Presidency offers member states an opportunity to steer legislative activity in the Council according to its national priorities and to reap disproportionate benefits from decision outcomes. The Presidency occupies a central position in legislative decision-making in the Council. It can affect legislative activity by focusing resources on certain issues. In order to reach agreement in gridlocked negotiations, the Presidency can explore the reservations of recalcitrant member states and address their concerns in its compromise proposal. The Presidency's proposal serves as a focal point in the Council negotiations, which facilitates decision-making. However, spending resources on one proposal means less for others. The Presidency will allocate its resources according to its national priorities. Thus, legislative activity in the Council is positively related to the salience the Presidency attaches to a topic (Hypothesis 1). Although the procedural power of the Presidency has been overstated in earlier work, the Presidency's proposal power and superior information ensure that it can reap disproportionate benefits from decision outcomes (Hypothesis 2). The procedural prerogatives of the Council Presidency give it a first-mover advantage which results under qualified majority in disproportionate benefits. Its informational asymmetry adds

to this effect. Knowing what concessions member states are willing to make allows the Presidency to tailor its proposal to maximize its own gains.

The theoretical considerations presented in this chapter emphasize the importance of confounding variables. The effect of the Presidency on legislative activity depends on the availability of suitable proposals in the legislative pipe-line, the voting threshold, and the salience attached to an issue by the Council in general. Proposal power diminishes with the size of the necessary majority and the appreciation of the status quo by the member states. Hence, empirical accounts of the power of the Presidency need to incorporate these as control variables to derive valid conclusions.

The theoretical claims put forward in this chapter will be put to the test in the remainder of the thesis. The next chapter provides an illustrative case study of the Power's influence on EU legislation. Subsequent chapters provide detailed statistical analyses of the Presidency's impact on legislative activity and decision outcomes in the Council.

Chapter Five

The Presidency and the Regulation of Occupational Health and Safety

5.1. Introduction

The Council Presidency is variously described as a mere legislative clerk or an all-powerful central actor in the Council. This chapter looks at the case of occupational health and safety regulation in the 1990s to scrutinize the effects of the Council Presidency on steering legislative activity through the needle's eye of the Council. Occupational health and safety is a traditional area of government intervention and thus led to the emergence of vast differences in the regulatory standards adopted in EU member states. Hence, it lends itself to an analysis investigating whether or not countries with high levels of regulation use their term at the helm in the Council to push for legislation in this field. Regulation of health and safety involves some technically complex matters, particularly when it comes to defining the exact measurement of regulatory levels. The focus of this study is therefore on the directives concerning noise, as this provides us with relatively easily comparable standards. The aim of this exploratory case study is to investigate if and how the Council Presidency can influence EU legislation. The focus of this chapter is on the effect on legislative activity (Hypothesis 1), but I also discuss the decision outcome. As I will show in this exploratory case study, the Council Presidency can push for legislation in fields it deems particularly salient.

The next section briefly describes the interests of member states in regulation on occupational health and safety. The interests of member states in European regulation

are discussed in more general terms in the previous chapter. Section 3 provides some background on the regulation occupational health and safety in EU member states and its importance for workers. Section 4 discusses several comparative measures of national regulatory standards on occupational health and safety. As explained in section 2, member states with high standards are more likely to push for European-wide regulation. Section 4 concludes that these are largely Northern European Countries. This assessment is based on several quantitative indicators and the descriptive literature. The chapter focuses on the second directive on noise, on which political agreement in the Council was eventually reached in 2001. Section 5 gives the background for the drive towards a stricter European regulation on occupational health and safety in the early 90s. Section 6 discusses the events following the adoption of a new Commission proposal on occupational health and safety in 1992. I argue that the adoption of new EU regulation is due to the effort of member states with high levels of regulation during their term as the Council Presidency. Germany overcame the gridlock in the Council, which lasted longer than the whole legislative proceedings for the first noise directive, by splitting the Commission proposal. It also put forward a proposal on vibrations, which was of particular importance to Germany due to its large work force in the manufacture of machines. Sweden, the leading nation in occupational health and safety regulation, followed up on this with a proposal on noise.

5.2. The Interests of Member States in Advancing Regulation

The interest a member state government will take in occupational health and safety regulation will differ on two grounds as explained in the last chapter. Firstly, a member state government will have a higher interest in safety at the work place due to electoral and ideological considerations. A government composed of parties whose traditional

constituency is working class will attribute a higher importance to these issues, particularly if working class support is critical to win elections. More generally, the higher the issue is rated among the core constituency of a government, the dearer the topic will be to it. Secondly, the economic ramifications of having a European-wide regulation imply that a member state whose industry is largely affected by changes in the regulatory environment will attach more importance to the topic. Just like environmental policy, the subject of the next chapter, regulations of safety at the work place potentially add to the costs of production. Safety at the work place is a traditional area of government intervention into the market. Hence, individual member states have developed a set of national regulations on occupational health and safety that differs in the level, scope, and approach taken (Olsen 1992: Ch. 3; Wynne and Clarkin 1992: 154-5; Vogel 1994: 8-20; Eichener 2000; Hämäläinen, Husman et al. 2001). If firms can credibly threaten to relocate their production to avoid higher costs, due to a higher standard of regulation, states will find themselves in a competition of regulatory standards. As the principle of mutual recognition guarantees access to the markets of the other member states, high level states cannot force lower level states to raise their standards through unilateral action (Scharpf 1999: 56). At the same time low level countries can block legislation aiming to increase regulatory standards, leading to a lowest common denominator outcome. In such a situation actors interested in a higher level of regulation, aiming to level the playing field, can use side-payments or issue linkage to achieve a different outcome. Alternatively, issue subtraction might preserve progress in limited areas (Sebenius 1983; Mayer 1992). The Council Presidency occupies a central position in Council deliberations to push for legislation to which it attaches high salience.

5.3. The Regulation of Occupational Health and Safety in Western Europe

The emergence of a 'social question' in Western Europe in the 19th century marks the advent of a societal concern with occupational health and safety (Vogel 1994: 8-20). The beginnings of legal provision on occupational health and safety, although initially often having an adverse effect on workers' health by limiting the employers' liability, can be traced to the close of the 19th century. Government intervention saw another boost in the period of the First World War and parallel to the spread of tayloristic means of production. Starting with the 1970s it widened into a concern not only for (physical) injuries and accidents, but the labour movement in particular became increasingly concerned with the overall organization of work (e.g., eliminating 'alienating factors'). Nevertheless, even physical factors of the work environment, such as noise and vibrations, persist in impairing employee's health and safety. More than 600 million working days are lost each year due to work-related illness or diseases. It is estimated that the costs of ill-health to the economy reach a staggering 4 per cent of GNP in Sweden, while the lowest (Irish and Portuguese) estimate still amount to 0.4 per cent of GNP in 1995 (European Agency for Safety and Health at Work 1999: 30-1). 28 per cent of all workers in Europe are exposed to loud noise and 25 per cent to strong vibrations (European Agency for Safety and Health at Work 2000: 73, 84). Noise-induced hearing loss was the fourth most common (recognized) occupational disease in 2001 and is most prevalent in the sectors of agriculture, mining, energy, manufacturing and construction. 22.5 million individuals suffer from hearing impairment. The financial costs have been estimated as EUR 78 billion per year (European Agency for Safety and Health at Work 2005: 51-3). Vibrations contribute to the development of musculoskeletal disorders, the most common work-related health problem. 30 per cent of European workers, i.e. 44 million individuals, complain about back ache and 23 per cent about muscular pain each

year. The financial costs of musculoskeletal disorders has been estimated at between 0.5 and 2 per cent of GNP (European Agency for Safety and Health at Work 2000).

5.4. Occupational Health and Safety: Identifying Leaders and Laggards

The governments of the member states of the European Union have a long tradition of intervention in the regulation of health and safety at the work place. Nevertheless, the exposure of workers to physical agents such as noise and vibrations continues to plague occupational health and safety. In the century in which the national governments have passed legislation on this, very different systems and levels of regulations have emerged in the EU member states. By estimating which member states adopted stringent regulations at a high level we can identify leaders who would be willing to push for European-wide legislation in line with their own strict standards on this subject.

To derive a comprehensive ranking of leaders and laggards in occupational health and safety policy, I will discuss a range of quantitative indicators and provide a summary of the descriptive literature. Unfortunately, national regulations on the risk of physical agents at the work place are subject to different legal cultures. No comprehensive study exists to my knowledge which would allow us to compare the national standards directly.¹⁹ Thus, only rough estimates based on indirect measurements can be provided. The first set of quantitative indicators concern the working conditions at the work place. Countries with high levels of regulation (and enforcement) should exhibit lower exposure of workers to risks from physical agents. The second set of quantitative indicators to be discussed below concerns the general level of occupational health and

¹⁹ Despite repeated efforts I was also unable to ascertain the required information in English directly from national ministries of all EU-15 countries.

safety standards as measured by ratification of international conventions on this issue and spending on health. Member states that voluntarily sign up on international conventions to protect workers at the work place are more likely to have strict regulations on occupational health and safety in place, either as a consequence of committing itself to international standards or because it supports the convention as it already adopted strict national measures. Also, a member state spending (relatively) more on health care in general can be expected to rate occupational health and safety more highly than other member states. A third quantitative indicator is based on party manifestos, giving the importance of welfare state expansion of member state governments. Finally, I discuss the qualitative literature on regulatory standards on health and safety in the member states of the European Union. While all these measures are far from perfect, in conjunction they do provide an estimate of leaders and laggards on occupational health and safety in the European Union.

The European Foundation for the Improvement of Living and Working Conditions carried out a number of surveys on working conditions which allow us to gauge the relative level of regulation in EC/EU member states. The surveys were carried out as a part of the Eurobarometer with an oversampling of persons in active employment. In all countries there were at least 500 face-to-face interviews (Luxembourg: 250) which took place in their private residence, based on a multi-stage random selection. The questions cover the physical working environment but also (and increasingly in later surveys) broader issues of working conditions, such as the organization of labour. Naturally, objective measurements would be preferable to subjective indicators based on the personal impression of respondents. What constitutes 'noise' or 'appropriate machinery' or 'health' can differ subjectively and across countries (Eichener 2000: 54). In the survey the exposure of noise was anchored by asking how often respondent had to raise

their voice to talk to people (see below). Even so, a subjective element remains. However studies on the validity of interview-based surveys on the working environment show a high validity for specific questions such as the level of noise (Rantanen, Kauppinen et al. 2001: 26-7).

Unfortunately, objective indicators on the specific level needed for this study are simply not available due to the huge costs involved in gathering this kind of information (Dhondt and Houtman 1997: 8-11). Furthermore, even when objective data are available (e.g., on accidents at the work place) it is often not comparable across EU member states or of poor quality (Clarke, King et al. 1992). Official statistics and administrative registers are often subject to under-reporting and inflexible in the definitions used, which are often based on criteria alien to the study (e.g., coverage for insurance reasons), which impairs comparability across countries or even administrative units at the sub-national level (Executive 1991: 8; Rantanen, Kauppinen et al. 2001: 22-3). Interview-based surveys ultimately allow a higher degree of comparability (Rantanen, Kauppinen et al. 2001: 25).

In 1991 interviewees were asked how often they are exposed to ‘noise so loud that you would have to raise your voice to talk to people’ and whether or not they had ‘appropriate machines and tools’ to carry out their work (Paoli 1992). The results are presented in Table 1. The first row gives the percentage of respondents in each country who were exposed to loud noise all or almost all of the time, the second and third rows give the values for an exposure at least half or a quarter of the time. Values range from 6.3 per cent for (West) Germany to 15.6 per cent in the top category. Only 11.5 per cent of respondents in the Netherlands reported exposure to noise at least half the time at work, whereas this value lies at 23 per cent in France. The lowest level of exposure in

the final category (exposure at least 25 per cent of the time) is reported for Belgium (23.1 per cent), while Greece and Spain exhibit the highest value in this category (31.5 per cent). For Belgium, Denmark, Germany, Italy, and the Netherlands the values are below the European average for all three categories. Denmark, Germany, and the Netherlands also comprise the top three countries for low exposure to noise in the top categories (exposure to noise almost all of the time and at least 50 per cent of the time). We can calculate the average of the ranks for each category to summarize the level of exposure in each country. In the overall ranking, The Netherlands, Germany, Denmark and Belgium (joint third place), Italy, and UK are leading in the low health risk at the working place due to noise. With regard to appropriate machines, the leading low risk countries are Ireland, France, Denmark, United Kingdom, and Germany. The good standards in Ireland can be explained by the high level of investment in new machinery (Eichener 2000: 57).

In the 1996 survey, the member states that joined the Union in 1995 were included and a large number of questions on various aspects of working conditions were added (Paoli 1997). Besides a high volume of noise, the exposure to vibrations from hand tools and machinery and radiation by sources such as x-rays, radioactivity, laser beams, or welding lights is covered in the survey. Belgium, Denmark, Germany, and the Netherlands are again exhibiting below average exposure to noise (Table 2). From the

Table 5.1.: Risk at the Workplace across Countries, EC-12, 1991

	B	D	DK	E	FR	GR	I	IRL	L	NL	P	UK	Average
Exposure to Noise													
(Almost) all the time	8.3	6.3	6.8	15.6	13.1	13.2	9.8	10.5	14.9	7.3	10.8	8.8	10.5
At least 50% of the time	15.3	13.8	14.3	22.1	23	22.5	17.6	21.5	19.2	11.5	18.9	16.3	18
At least 25% of the time	23.1	24.2	25.7	31.5	31.4	31.5	25.3	31.3	27.5	19.6	27.7	28.4	27.3
Overall Ranking	3	2	3	9	8	9	4	7	7	1	6	5	
Appropriate Equipment													
Appropriate Machines	77.4	83.5	86.5	80.9	86.6	72.1	74.5	87.8	81.2	80.7	76.1	84.3	81
Ranking	9	5	3	7	2	12	11	1	6	8	10	4	

Source: Paoli 1992, own calculations

NB: There are three additional answer categories for which the results have not published separately: around ¼ of the time, around ¼ of the time, don't know/didn't answer. Germany (D) refers to former West Germany. Italics denote below average values for exposure to noise and above average values for appropriate equipment.

Table 5.2.: Exposure to Physical Agents, EC-15, 1996

	A	B	D	DK	E	FR	FIN	GR	I	IRL	L	NL	P	SE	UK	Average
Noise	27	23	28	29	29	30	39	38	21	30	28	24	28	31	31	29.1
Ranking	4	2	5	6	6	7	10	9	1	7	5	3	5	8	8	
Vibrations	27	18	29	15	30	23	26	37	20	24	25	13	30	15	18	23.3
Ranking	9	3	10	2	11	5	8	12	4	6	7	1	11	2	3	
Radiation	9	4	6	7	6	4	8	7	3	5	6	5	3	8	6	5.8
Ranking	7	2	4	5	4	2	6	5	1	3	4	3	1	6	4	

Source: Paoli 1997 (Table 5-1), own calculations

Table 5.3.: Ratification of Conventions of the International Labour Organization

	A	D	DK	E	FIN	FR	I	IRE	L	P	SE	UK
Ratifications (%)	14	68	41	64	82	50	45	23	18	41	82	18
Rank	11	2	6	3	1	4	5	8	9	7	1	10

Source: Rantanen et al. (2002), own calculations

Table 5.4.: Health Care Expenditure as Percentage of GDP, EU-15, 1995 and 2003

	EU-15	A	B	DK	FIN	FR	D	GR	IRE	I	L	NL	P	E	SE	UK
1995	7.4	7.1	6.3	5.5	6.4	8.1	8.4	5.6	6.5	5.5	5.7	8.3	7	6.1	7.5	6.5
Rank	-	5	9	13	8	3	1	12	7	13	11	2	6	10	4	7
2003	7.7	7.1	7.6	6.1	6.5	8.9	8.1	6.7	6.6	6.5	5.8	8.2	6.5	5.9	8.5	7.7
Rank	-	7	6	11	10	1	4	8	9	10	13	3	10	12	2	5

Source: Eurostat, Europe in Figures – Eurostat Yearbook 2006-7, own calculations. Italics denote above average values.

new member states only Austria belongs to the same group. The Netherlands, Sweden and Denmark (joint 2nd place), and Belgium and United Kingdom (joint 3rd place) exhibited the lowest levels of exposure to vibrations. Finally, respondents from Italy, Portugal, France, and Belgium report the lowest exposure to radiation.

More general indicators of the salience and position of member states on occupational health and safety are the degree to which a member states voluntarily joins international conventions and the costs it incurs in the area of health. The International Labour Organization adopted 22 conventions related to occupational health and safety before 2002. Rantanen, Kauppinen et al. (2002) provide an overview of the ratification situation in 12 of the EU-15 countries in 2002 (Table 3). Countries who adopted a high number of ILO conventions tend to have the highest legal coverage in the area of occupational health and safety (Rantanen, Kauppinen et al. 2001: 32). Unfortunately, the ranking only includes 12 of the (then) 15 member states. The top three countries are Finland, Sweden (joint 1st rank), and Germany. Finland and Sweden both ratified 82 percent of the ILO conventions, for Germany the value is 68 per cent. Spain occupies the third place with 64 per cent. Eichener (2000: 60), however, notes Spain notoriously weak national laws on occupational health and safety, which is characterized by its lack of clear definitions of key terms and binding nature. Germany and Sweden also spend more than the EU-15 average on health in 1995 and 2003, besides France and the Netherlands (Table 4). Admittedly, this is a rather crude and indirect indicator of the salience and position of member states on occupational health and safety. A more direct measure of the costs a member states accepts to tackle issues of occupational health and safety would be the number of medical personnel working devoted to occupational health and the number of labour inspectors relative to the labour force. Eichener (2000: 59) reports a high level of personnel in occupational health and safety for (relative to the

labour force) in (West) Germany, Belgium, and Ireland in 1990. But this only includes seven member states (Greece, France, Portugal, and the United Kingdom besides the ones listed above). Deriving comprehensive comparative measures involves the difficulty of defining unambiguously and in a comparative manner who should be counted. Member states vary in the job qualification, tasks, and integration of different medical personnel to provide assistance in occupational health and safety. The division of labour between physicians, nurses, and specialists (e.g., physiotherapists) differs too much across countries to derive meaningful comparative statistics (cf. Rantanen, Kauppinen et al. 2001: 32; for labour inspectors compare Olsen 1992: Ch. 3). In addition, in order to be comparable the measure has to be standardized to full-time equivalent position. This poses a major obstacle in several countries such as Ireland, Italy, Portugal, and Sweden (Rantanen, Kauppinen et al. 2002).

A comparative qualitative assessment of the regulatory level of occupational health and safety in EC member state has been carried out by Volker Eichener (2000). Based on a comprehensive review of several indicators and the existing descriptive literature, Eichener differentiates three groups of low, medium, and high standards (Eichener 2000: 59-64). The first group is characterized by rudimentary protection at the working place and high risks. This group includes Greece, Portugal, and Spain. In Italy occupational health and safety is decided upon on a regional basis. Southern Italy also belongs to the areas of low standards. Ireland has adopted higher standards, notably in the Safety, Health, and Welfare at Work Act of 1989, but lagged behind in implementation. Hence, Eichener locates it between low and medium standards. A second group of medium standards exhibit reduced, but still notable, levels of risks to health at safety at the work place due to the physical environment. This group includes Belgium, France, Great Britain, (Northern) Italy, and Luxembourg. West Germany is

located at the higher end of this group due to its traditionally high technical levels of regulation, whereas Eastern Germany would be part of the lower group. It should be noted that after re-unification West German standards and legislation commonly applied in East Germany (rather than the other way around). High levels of workplace health action in Germany are also attested by another comparative study (Wynne-Clark 1992: 154). The top group has not only high levels of regulations concerning traditional perceptions of risks, but in addition – unlike Germany - employs a holistic approach towards health risk due to work. This includes health risks due to the organization of work. Denmark, the Netherlands, and Sweden form this group of member states with high levels of regulations of occupational health and safety and an innovative and comprehensive approach to combating risk in this area. Another comparative study of thirteen EU member states (Piotet 1996) concludes that besides the Scandinavian countries, Germany and the Netherlands feature occupational health and safety system that go beyond mere prevention of accidents and disease, but broaden actions taken against ill-health (in its wider meaning).

The descriptive literature distinguishes between the Scandinavian leaders in occupational health and safety, a group of high technical (but not necessarily innovative) regulatory standards mainly comprised of Northern countries, and Southern laggards. This picture is largely confirmed by the quantitative indicators. The 1991 survey on the exposure to noise shows that the Netherlands, Germany, Denmark and Belgium have the lowest exposure. Belgium, Germany, and the Netherlands are also in the leading group according to the 1996 survey. The best values for appropriate machinery are reported for Denmark, France, Germany, Ireland, and the United Kingdom. In the 1996 survey, respondents from Belgium, Denmark, the Netherlands, Sweden, and the United Kingdom reported the lowest exposure to vibrations. More

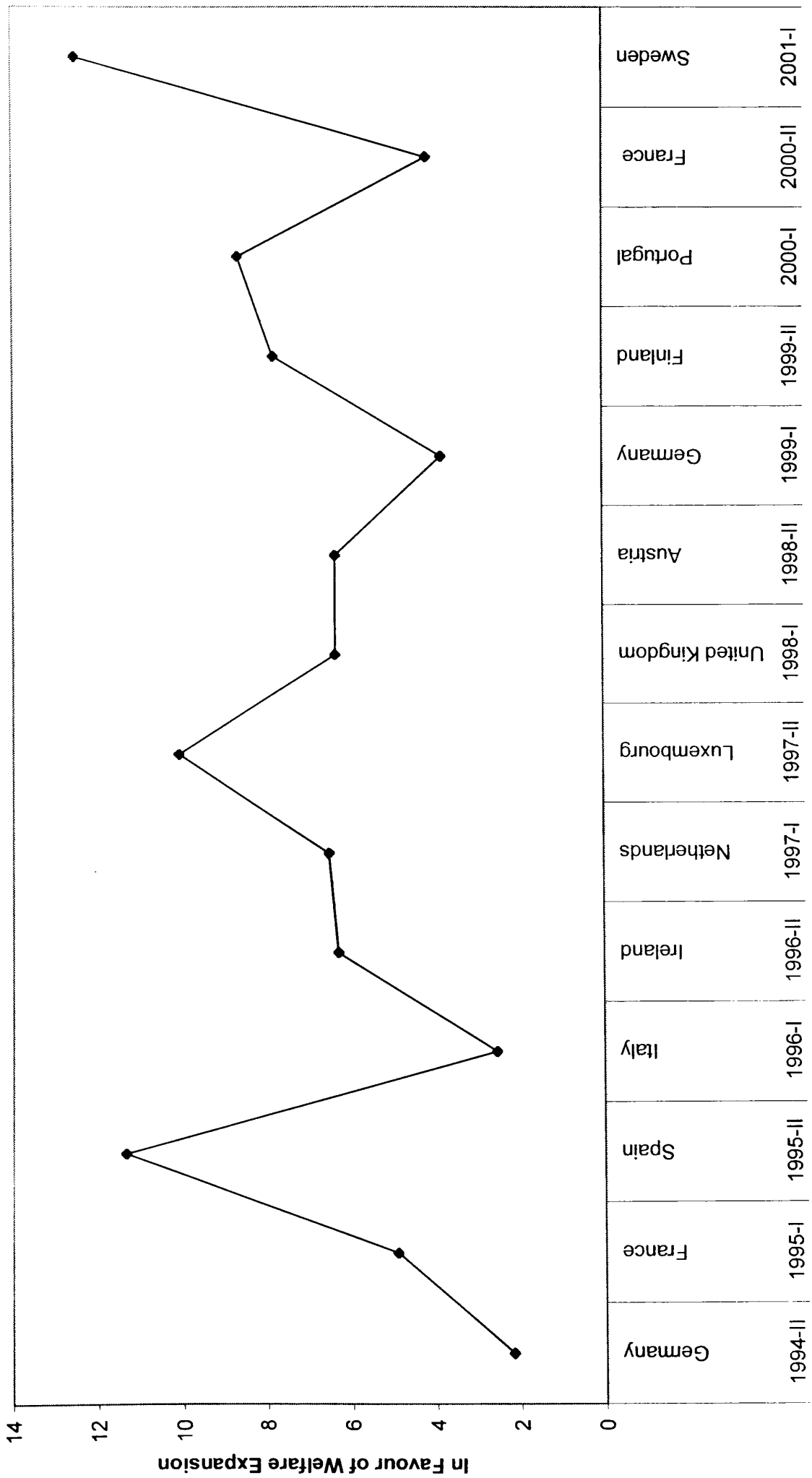
general indicators of regulatory standards in occupational health and safety also confirm to this pattern. The top three countries for ratifications of ILO conventions are Finland, Germany, and Sweden. Furthermore, France, Germany, the Netherlands, and Sweden spend more on health care (as percentage of GDP) than the EU average in 1995 and 2003.

Party manifesto data can be used to estimate how a particular government feels about a particular topic (Budge, Klingemann et al. 2001). Unlike the previous indicators, this does not necessarily represent (the effects of) high regulatory standards, but could be interpreted as the importance attached to this area or the willingness to impose strict standards. The measurement was principally designed to capture the salience of a topic for a given party. For some topic, such as welfare state expansion, the direction of the statement (e.g., positive or negative attitude towards welfare state expansion) was measured as well. Figure 6.1. presents the governmental position on welfare expansion as expressed in party manifestos of the Council Presidency between 1994 through 2001²⁰. The values were calculated by weighting the relative emphasis on welfare state expansion in party manifestos of the last election by the number of cabinet posts held by the party.²¹ Some words of caution are in order given the small number of data points and the use of this indicator to approximate the importance of a specific dossier and the position of member state governments on it. The values are difficult to calculate for France and Italy, because of frequent changes of the party political landscape in France and a large number of independent ministers in Italy. For the Italian Presidency in 1996 the position of the median party in the parliament is used instead. The values for the French Presidencies are based on the most dominant party in cabinet. Social policy, unlike environmental policy which is the subject of a later chapter, is also captured in a

²⁰ More recent party manifesto data is not yet publicly available.

²¹ A similar indicator is used, although for a longer time series, in the next chapter. I cover the relative merits and disadvantages of the indicator in more detail there.

Figure 1: Governmental Position on Welfare Expansion



number of variables in the party manifesto data set, which makes direct comparisons across countries and the use to approximate the position on a particular item difficult. I used the variable on positive mentioning of welfare state expansion (excluding education, PER504) as this is the most direct measurement in the data set. Thus, the results should be taken with a large pinch of salt. One can roughly distinguish three periods in the data. From the German Presidency in 1994 through the Irish Presidency in 1996 values are relatively low, when we discount the value for Spain in 1995. From the Dutch Presidency in 1997 through the Austrian Presidency in 1998 the Council Presidencies are generally more favourable to welfare state expansion. In the Period of the German Presidency in 1999 to the Swedish one in 2001, the Council Presidency seems generally even more in favour of the welfare state. In this period, the Council Presidency was held by countries that place a high value on occupational health and safety. Thus, we should expect more legislative activity in this field during that time period.

Another reason, other than electoral or ideological concerns, to place an item high on the legislative agenda would be the importance of a domestic industry which is affected by a given dossier. Regulation of the exposure of workers to noise and vibrations affects the building of machinery. The machinery building industry would prefer a uniform European-wide regulation as this allows it to reap the benefits from economies of scale as it in effect can build for a larger market, rather than having to accommodate different national regulations. Denmark and Germany have the highest percentage of employees in machinery building of the national industrial labour force in the EU. 14 per cent of the national industrial employment in Germany and Denmark are in the manufacture of machinery and equipment. Germany also has the densest concentration of industrial workers in the machine building industry. The top seven regions most specialized on the

manufacture of machinery are all in Germany. Machinery also plays an important part in German exports and thus in the German economy. Indeed, in 2003 German production comprised 37.7 per cent of value added by the manufacture of machinery and equipment of the EU-27 (Eurostat 2006). Thus, we would expect a German government in particular to rate dossiers which affect the manufacture of machinery very highly.

In sum, we should expect a push for legislation on occupational health and safety when the Council Presidency is occupied by a North European country. Germany has a special interest in directives concerning machinery due to its large industry producing machinery. Sweden and Finland stand out as member states with an innovative national regulations and comprehensive coverage of occupational health and safety.

5.5. The Impact of the Council Presidency on the Regulation of Occupational Health and Safety

Member states with high levels of regulations have an interest in establishing European-wide regulations. In the field of occupational health and Safety, the Scandinavian countries and Germany have high standards and, in the case of Germany, additional incentives to push for European levels. Thus, we would expect that these countries would push for European regulations in occupational health and safety during their term in office as the Council Presidency. Indeed, the case of the second noise directives shows how a country with high levels of regulations (Germany) opens up the possibility for agreement using its position at the helm.

The European Community had already adopted some regulation on occupational health and safety in the late 70s. In 1986, the first directive on noise was passed in the Council. However, the technical development and the increasing awareness of health risks at the workplace made a more comprehensive and stricter approach necessary. Thus, the Commission made a proposal for a directive on the minimum health and safety requirements regarding the exposure of workers to the risks arising from physical agents (COM 92/560) in 1992. It aimed to extend the scope of the existing legislation on noise exposure and the threshold values. Specifically, it established three levels for noise, mechanical vibrations, optical radiation and electromagnetic fields (Art. 3, Annex):

- a ceiling level, which must not be exceeded,
- an action level, above which one or more of specified measures must be undertaken
- a threshold level, which represents the value below which the exposure should be reduced

Relative to the existing directive on noise, which was passed in 1986, stricter limits and a wider scope were suggested by the Commission. After the Commission adopted its amended proposal in 1994, the proposal was stalled in the Council for five years until successive Presidencies of member states with high levels of regulation in occupational health and safety pushed for new European-wide regulations.

In 1999 the German Presidency proposed to split the directive, submitting a draft covering only vibration which was eventually passed in 2002 (Table 5.5.). This issue subtraction led to the subsequent adoption of regulations for mechanical vibration and noise in the following three years. The German proposal on vibration was followed by a

Swedish one on noise, which was put forward in January 2000. Political agreement was reached on the vibration directive in the Council in November 2000. Furthermore, the Danish Presidency made a proposal with regard to a directive concerning electromagnetic fields. To reach agreement on the safety and health at work directives was one of the priorities of the Belgian Presidency in 2001 (Agence Europe No. 7983) and the Danish Presidency in 2002 (Agence Europe No. 8259). The Swedish Presidency discussed the noise directive as a B item and reached political agreement based on its proposal. A Common Position was subsequently adopted under the Belgian Presidency in the second half of 2001. The Swedish Presidency also saw through the adoption of a Common Position on the vibration directive.

Table 5.5: Legislative Activity on Occupational Health and Safety Directives in the Council

	Vibrations	Noise	Radiation	Electromagnetic fields
Initial Proposal	COD 1992/0449	COD 1992/0449A	COD 1992/0449B 23.12.1992 (COM 1992/560)	COD 1992/0449C
Modified proposal			08.07.1994 (COM 1994/284)	
Split of directive			1999 <i>German Presidency</i>	
Political Agreement in the Council	28.11.2000 <i>French Presidency</i>	11.6.2001 <i>Swedish Presidency</i>	7.12.2004 <i>Dutch Presidency</i>	20.10.2003 <i>Italian Presidency</i>
Common Position adopted	25.06.2001 <i>Swedish Presidency</i>	29.10.2001 <i>Belgian Presidency</i>	18.4.2005 <i>Luxembourg Presidency</i>	18.12.2003 <i>Italian Presidency</i>
Final act/Signature	25.06.2002	6.2.2003	5.4.2006	29.4.2004

The timing of legislative activity in the Council largely confirms our expectations. The key steps for the noise and vibration directive are taken in the period after the 1999 German Presidency, with governments in the chair who are favourable disposed to welfare expansion (Figure 1). Germany, with its large number of workers in the manufacturing of machinery and equipment, unlocked the gridlocked directive encompassing all four physical agents and moved on the vibration directive, which

affects its domestic industry most directly. Sweden, a leading country in terms of its national regulation on occupational health and safety, took up the second physical agent and reached political agreement on it during its Presidency, which was formally adopted during the Belgian Presidency. Denmark made a proposal on the technically more difficult subject of radiation. The Dutch Presidency saw political agreement in the Council on radiation. Only the activities of the Italian presidency on electromagnetic fields do not conform to this pattern.

The first directive on noise had been adopted four years after it had been proposed by the Commission. The second directive however languished for five years in the Council, before being taken up there. Political agreement was only reached seven years afterwards. While the overall length can be partially explained by the formal necessities of the codecision procedure, the exact timing coincides with the Presidencies of countries who are particularly interested in occupational health and safety. As discussed earlier, we would expect regulations of this kind to be at the top of the agenda of Northern countries such as Germany, Denmark, and Sweden. After the German Presidency unlocked the gridlock by splitting the directive on physical agents into four separate directives, Sweden in particular used its Council Presidency to push for European-wide regulations of occupational health and safety.

5.6. Conclusion

The history of the occupational safety and health directive serves as a cautionary tale on the ability of the European Union to adopt innovative, high level regulations. Regulation needs to pass the ‘needle’s eye’ of the Council, where countries can prevent

initiatives to stray too far from the lowest common denominator. The Council Presidency is uniquely positioned to push legislation through the Council.

The revival of the stalled directive in 1999 and the subsequent adoption of two directives regarding vibration and noise reflect the ability of the Council Presidency to influence legislative activity. After languishing in the Council for years, the discussion on the second directive on noise was revived by Presidencies which attached high salience to occupational health and safety. The German Presidency divided the proposal into four separate directives, which unblocked the stalled negotiations. This push resulted in the quick adoption of EU legislation in this field. The German Presidency concluded a directive on vibration, under the Swedish Presidency the second noise directive was adopted. Thus, the case study presents evidence for an effect of the Presidency on legislative activity (Hypothesis 1).

The next chapter studies the effect of the Presidency on legislative activity and decision outcomes separately. The statistical analyses presented in these chapters allow us to cover more cases and to account for potentially confounding factors.

Chapter Six

The Impact of the Council Presidency on Legislative Activity

6.1. Introduction

The potential influence of the Council Presidency on legislative activity in the Council has often been noted by scholars and practitioners. Indeed, the central role of the Presidency in Council deliberations would give ample opportunity for the Presidency to follow national priorities in steering the EU's legislative work. As I have discussed in my theory chapter, member states certainly have incentives to do so. However, attempts by a member state to affect legislative activity also face several obstacles. Existing empirical accounts of the Presidency for the most part only cover individual Presidencies and focus on other aspects, such as administrative preparation or the role perception of civil servants involved in the Presidency as I have described in chapter 3.

The case study presented in the preceding chapter has illustrated how the Council Presidency can push certain proposals if they are particularly salient to it. This chapter studies the relationship between the salience the Presidency attaches to a policy field and legislative activity in the Council on this topic (Hypothesis 1) more generally. The statistical analysis adds to our knowledge on the effects of the Presidency on EU legislation in several ways. Firstly, it is the first study to consider the effect over a longer time period. It covers 35 Presidencies from 1984 through 2001. Another innovation concerns the research design. Most existing studies rely on statements of the Presidency to derive their priorities. However, these statements could be misleading. Member states might include items that are not a national priority but ripe for a decision

simply to claim credit. Furthermore, a member state might choose not to highlight that it intends to prioritize dossiers according to its national agenda. In this study general statements of a government's legislative priorities are used, namely party manifestos from the last election, and cross-validated with the Presidency's working programme. Finally, the effects of the legislative procedure, voting threshold, the position of a member state, and the overall level of salience for all member states are controlled for in the multivariate analysis.

The chapter scrutinizes the relationship between the importance the government holding the Council Presidency attaches to environmental policy and legislative activity in the first reading in the Council in this field for the period 1984 through 2001 after briefly discussing legislative activity in all policy fields. The Council Presidency's salience has in general a notable positive and statistically significant impact on legislative activity in the Council. This holds true even when controlling for the general level of importance attached to environment by all Council members and the position of the Council Presidency on European environmental regulation besides other procedural factors.

The chapter is organized as follows: The next section outlines the data base and the measurement of the dependent variable. It also briefly discusses the variation of adoption rates in the Council which suggests an influence of the Council Presidency. The main analysis of this chapter is concerned with legislative activity in environmental policy. Section 3 provides some background on this policy field before I discuss the measurement of the main independent variables in section 4. Section 5 discusses one of the main control variables, namely the level of salience for environmental policy in the Council as a whole, in more detail. Section 6 starts the presentation of the main analysis of this chapter, scrutinizing the relationship between legislative activity and salience of the Council Presidency. The bivariate analysis is discussed in section 6, the results of

the multivariate analysis are presented in section 7. The chapter presents evidence that the Council Presidency does influence legislative activity in the Council for the field of environmental policy in the time period 1984 through 2001. When the Presidency attached high significance to environmental policy, more legislation in this field was decided upon in the Council.

6. 2. Data and Measurement of the Dependent Variable

The data on the legislative activity of the European Union is based on the PRELEX database. PRELEX is a database maintained by the European Commission which traces all inter-institutional documents of the Commission. It covers all legislative proposals which have been introduced or where pending from 1 January 1976. For my analysis I right-censor the data on 31 December 2003, that is with the end of the last presidency before Eastern enlargement²². Furthermore, I only consider legislation which is (still) pending after 1 January 1984. For this period PRELEX contains 10 466 proposals for binding legislation (decisions, directives, and regulations) in the EC/EU framework²³.

PRELEX documents the complete timeline of proceedings, and provides additional information such as the legal basis, the type of proposal (decision, regulation, directive), and the responsible Directorate-General in the European Commission. It traces the exact timeline of the proceedings giving the dates of all Council meetings at which a proposal has been discussed. Unfortunately, the PRELEX data set is only available as an online databank, which cannot be directly used for the statistical analysis. As PRELEX

²² The 2004 Enlargement nearly doubled the membership of the Council, which might affect the efficiency of the Council Presidency in pushing for legislation. As sufficient data is not available at this point in time for the post-Enlargement period, I restrict myself to this time period.

²³ PRELEX also includes legislative proceeding concerning EURATOM, which I discard for the analysis presented here. I also ignore proceedings initiated by actors other than the European Commission (e.g., the European Central Bank).

contains thousands of entries, I wrote several computer programmes to remedy this problem and gather the necessary data. Firstly, I downloaded the data sheets for all legislative proceedings contained in the data set by programming a routine that automatically requests the different data sheets and downloads the webpages containing the results. PRELEX also includes non-legislative proceedings. A second programme filtered the PRELEX data and re-formatted it. Two independent variables of my analysis had to be coded by proxy as the information was not directly available in PRELEX. The coding of the policy field²⁴ is based on the primarily responsible Directorate-General of the European Commission. The applicable voting threshold is coded according to the legal basis. A third programme re-coded this information by linking the legal basis to the applicable voting threshold. Finally, one programme checked the consistency and comprehensiveness of the re-formatted and extended data set.

My dependent variable consists of the number of environmental legislation resolved during a Council Presidency. We have to take into account that the absolute number of resolved acts might be misleading if we do not consider the number of acts that can be resolved. For this purpose, I calculate the percentage of acts addressed of the number of acts pending during a given presidency. In the multivariate analysis, the number of pending proposals is included as an exposure variable. Exposure (offset) variables are included in models to account for the fact that observations have been exposed to varying degrees to a given 'risk' (Gelman and Hill 2007: 111-4). In our case, we want to control for the circumstance that it is more likely to find higher absolute levels of legislative activity if there have been more pending proposals, irrespective of the efforts of the Presidency.

²⁴ PRELEX data sheets often contain several policy fields for one proposal. By using the responsible Directorate-General as a proxy I could identify the most relevant one.

The time point from which the Council might act upon a legislative proposal differs for the legislative procedures which have been in use in the EC/EU between 1984 through 2001. In some cases the Council is obliged to consider the opinion of the Economic and Social Committee before it can act. The start date has been adopted accordingly throughout. The main legislative procedures (consultation, cooperation, codecision) require the involvement of the European Parliament. The cooperation and codecision procedures also consist of several readings. Thus, the Council acts at several stages during the legislative proceeding, reacting to the actions taken by the European Parliament and the Commission. After the first reading, time constraints are imposed by the procedures, requiring the Council to act within three months (adoption at second reading) or six weeks (adoption after conciliation). All procedures, however, require that the Council agrees on its position (either by adopting the law or formulating a common position) in the first reading as explained in chapter 3. As there are no time limits in the first reading, once the proposal passes to the Council it is free to act upon it. The common position represents an important step towards the adoption of an act as the subsequent negotiations between the European Parliament and the Council are based upon it (Corbett 2000: 375-6; Tsebelis and Garrett 2000: 22-3; Bostock 2002: 219-20). Thus, I will restrict myself to Council actions in the first reading.

I consider an act to be addressed by the Council if political agreement on the common position or the adoption of an act has been reached. The Council sometimes formally adopts its position after having reached agreement in a prior session. The reason for this is that the Council members sometimes require lingo-jurists to work out some technical issue after having reached agreement on the substantial issues. In these cases I use the date of the political agreement instead of the date of the formal adoption. In some cases PRELEX records several sessions during which political agreement on a dossier in the

first reading was reached. If these occasions fall in different Council presidencies, these cases have been excluded from the analysis. Furthermore, the Council in some instances reached political agreement before it could formally adopt an act (e.g., because it had to wait for an opinion of the European Parliament). These cases are also excluded.

The comparison of the success in addressing acts during a given presidency is, unfortunately, not straightforward. As already mentioned, absolute numbers only tell a part of the story. Fractions giving the ratio of accepted to pending proposals are also not straightforward to interpret as the range they can take depends on the denominator. Thus, in the extreme case of only one pending proposal, the relative rate of adoption is either 0 per cent or 100 per cent. Higher values in the denominator allow a wider range of potential success rates. Keeping this caveat in mind, we note that the relative number of acts addressed ranges widely between individual presidencies. Table 6.1. presents the minimum, maximum, average, and range of the success rate for policy fields, in which there were at least 10 pending proposals during each Presidency. A policy field would exhibit a success rate of 100 per cent if all proposals were resolved during the presidency under which they became pending.

Policy field	Ratio Addressed/Pending Proposals (in percent)				Pending Proposals	
	Average	Range	Minimum	Maximum	Minimum	Average
Agriculture	27.34	56.39	5.70	62.09	131	218.75
Budget	1.53	23.17	0.00	23.17	21	43.53
Customs	32.04	52.69	10.20	62.89	55	105.80
Economics	12.04	25.81	0.00	25.81	24	42.10
Environment	20.15	45.45	0.00	45.45	12	32.45
External	37.73	50.34	10.00	60.34	26	92.50
Fisheries	41.12	44.64	19.15	63.79	35	53.43
Internal	16.14	36.65	3.70	40.35	41	55.10
Social	13.31	27.59	0.00	27.59	14	32.95
Transport	8.53	21.05	0.00	21.05	35	53.33

Presidencies are to different degrees successful in reaching agreements. In the areas Budget, Economics and Finance, Environment, Social Affairs, and Transport sometimes no agreement is reached on a single proposal although there are always at least 12 proposals pending. In all of these fields, except environment, the maximum number of addressed proposals lies about one fifth of pending proposals. This suggests that dossiers in these policy fields are notoriously difficult to resolve. Environment has a much higher range of success rate as sometimes nearly half of the pending proposals have been resolved during a presidency. The variance between Council presidencies might be due to the different levels of effort Council presidencies invest into addressing proposals in this policy field.

The success rates for all Council presidencies from 1984 through 2003 by policy field are listed in Appendix C. The variability in the success rate across Council presidencies in all policy fields might serve as a first hint that the Council presidency does have an impact on legislative activity.

6.3. Environmental Policy in the European Union

Although the EU formal competence for environmental protection dates from the Single European Act, there has been substantial activity in the field before 1987. The Single European Act from 1987 introduced an environmental title to the treaty. Article 130r (now: Article 174) provides an explicit basis for environmental policy. Before that date, the protection of the environment was not mentioned as a Union competence in the Treaty establishing the European (Economic) Community²⁵. The ‘protection of health and life of humans, animals or plants’, however, constituted a reason to impose

²⁵ The EURATOM Treaty contained provisions concerning nuclear radiation and waste (Art. 2, 30, 35, 37).

restriction on trade in the common market (Article 36 [now 30]). Thus, legislation prior to the Single European Act was based on Common Market articles. According to these provisions, a directive harmonizing national regulations can be passed by the Council acting unanimously on a proposal from the Commission if it serves the establishment or functioning of a common market (Art. 100 [now 94]). If there is no direct treaty provision, but European legislation is necessary to attain one of the objectives of the Treaty, the Council may act unanimously on a proposal of the Commission after consulting the European Parliament (Art. 235 [now 308]). Article 130r provides a legal basis for Community actions aimed at protecting, preserving and improving the quality of environment, protecting human health, the rational and prudent use of natural resources, and measures at the international level for environmental protection. Environmental policy 'shall aim at a high level of protection taking into account the diversity of situations in the various regions of the Community' (Article 130r Para. 2). One of the factors to be taken into account is the economic and social development of the Community (Article 130r Para. 2I). Environmental policy was to be guided by the precautionary principle and the polluter-pays-principle (Article 130r Para. 2). Member states were free to adopt stricter standards at the national level (Art. 130t [now 176]). At the same time, a new article (Art. 100a) allowed the Council to act by qualified majority if the harmonization of national legislation was necessary to attain a common market objective which also has been used for environmental legislation (McCormick 2001: 56-7).

The Maastricht treaty established the codecision procedure which is also applicable to environmental policy, thus allowing environmental policy to be decided by qualified majority. Provisions primarily of a fiscal nature, measures concerning town and country planning, and measures significantly affecting a member state's choice between

different energy sources, however, still need an unanimous decision by the Council (Art. 130s Para. 2 [now 175]).

Environmental policy is not mentioned in the Treaty of Rome. Nevertheless, the Union adopted legislation in this field before it held a formal mandate (Barnes and Barnes 1999; McCormick 2001). Following the United Nations Conference on the Human Environment, however, the summit in Paris in 1972 declared that the goals of the treaty included ‘an improvement in the quality of life as well as in standards of living [and] particular attention will be given to intangible values and to protecting the environment’. The next year saw the creation of a unit within DG Industrial Policy, which was responsible for environment and consumer protection, and the adoption of an action programme on environment. The First Environmental Action Programme (EAP) of 1973 set out the principle of shared responsibility of the member states and the Community for environmental policy. In the early 1970s, European legislation set common standards in the areas of water and air pollution, chemicals, waste, nature conservation, and – due to the cooperation in the field of nuclear energy – nuclear safety. The second Environmental Action Programme, adopted in May 1977, added protection of flora and fauna and the environmental labels. Whereas the first EAP focused on gathering information on pollutants and their effects as well as on other environmental issues, the second EAP introduced sections on monitoring and assessing policies. The First Environmental Action Programme of 1973 and its follow-up in 1977 established important principles (e.g., precautionary approach, polluter responsibility), which were later enshrined in treaty law. The importance environmental protection gained as a policy field during the 1970s is reflected in the creation of a separate DG for environment in 1981 and the adoption of the third Environmental Action Plan.

Until the SEA introduced an explicit competence title for European environmental policy, Community measures in this field were based on ‘creative interpretations’ (McCormick 2001: 49) of Articles 100 and 235. This practice was challenged in some cases by member states but the European Court of Justice upheld it in two important decisions in 1980 and 1985. The European Council conclusions of the summit in Stuttgart in 1983 acknowledged ‘the urgent necessity of accelerating and reinforcing action at national, Community and international level aimed at combating the pollution of the environment’. Before the SEA gave the Community an explicit treaty basis for environmental policy in 1987, a substantial amount of legislation in this field had been passed (McCormick 2001: 52-55). The SEA gave environmental legislation a new impetus, which reflected the growing public awareness of environmental problems. It was also due to the development of national environmental policy which created distortions to the common market. Although the SEA provided an explicit treaty title for environmental policy, the Commission continued to base its proposals on internal market provisions. The reason for this was that the new Article 100a only called for a qualified majority whereas Article 130r required unanimity. The Court supported this practice (Bongaerts 1994: 160-2).

The first four Environmental Action Programmes had outlined principles and identified problems. The instrument to remedy these problems was regulation. The background for the fifth EAP was provided by the publication of the report of the World Commission on Environment and Development (Brundtland report) in 1987. The Brundtland report emphasised the need to reconcile economic and social development with the protection of the environment and developed the concept of sustainable development. The fifth Environmental Action Programme of 1992 set out more ambitious goals, included targets and time-frames and established incentive-based and financial mechanisms to

complement regulation. It also broadened the scope of environmental policy by calling for an appraisal of the environmental effects of Community policies in other areas (Hull 1994: 150-3). More specifically, it identified the economic sectors of agriculture, energy, industry, transport, and tourism as areas of heavy pollution. The fifth EAP prioritized climate change, acidification and air quality, coastal zones, management of water resources, protection of nature and bio-diversity and urban environment. In the wake of the fifth EAP, environmental policy has adopted a more holistic approach, focusing on the effects on a given medium instead of concentrating on the individual factors affecting it. Examples for this new approach are the framework directives for air and water quality.

The treaty revisions agreed at the Amsterdam summit in 1997 included the addition of sustainable development as a goal of Union policy (Articles 2 TEU, 2 TEC), a concept which had been introduced by the fifth EAP. The integration objective already emphasized in earlier action programmes was now explicitly extended to the field of agriculture (Article 6 TEC). The Amsterdam treaty revisions also strengthened the 'environmental guarantee' (Barnes and Barnes 1999: 51) of Article 95 allowing member states to maintain stricter standards.

In sum, the European Union had enacted laws well before it gained an explicit competence to do so. Thus, the empirical analysis can look at a longer time period. To enact environmental policy a decision had to be reached either by unanimity or qualified majority in the period which is the subject of this study. The voting threshold is included as a control variable in the multivariate analysis.

6.4. National Policy Positions and Governmental Salience

In order to determine whether or not legislative activity follows national priorities we need a measurement of governmental salience of environmental policy, the main independent variable, and national positions on environmental protection. The latter is an important control variable. As I have explained earlier (chapter 4), environmental policy lends itself to the study of the Presidency's impact on legislative activity as governments who attach high importance to the environment are likely to advocate high standards. This reduces the problem of policy positions as a confounding factor. The policy positions on a more – less environmental protection continuum are highly likely to correlate with the salience of environmental policy. Indeed, one of the most prominent measures of party positions, relying on the relative frequency of key terms in party manifestos, was initially intended as a measure of salience but is frequently used to estimate positions (Budge 1999; Laver and Garry 2000). Nevertheless, I include a control variable for policy positions in my analysis. It should be noted that the measurement is not directly related to the measure of salience.

The stances of parties on political issues have been derived in two principal ways: coding of party statements and expert surveys. For our purposes, expert surveys have several drawbacks. Firstly, they do not provide comprehensive coverage of individual policy fields, such as environment. Secondly, they arguably capture an average estimate across time, not an estimate of the current situation (Laver and Garry 2000; Volkens 2007). Thirdly, they are usually not anchored, making cross-national comparisons difficult (McDonald, Mendes et al. 2007). Thus, I will use party manifesto data.

Saliency is defined as the importance a political actors attaches to a given topic (Laver 2001). In the present context, we are interested in governmental saliency, that is the importance the government of a member state ascribes to a particular policy field. The variables for governmental saliency is drawn from the Comparative Manifesto Group's data (Budge, Klingemann et al. 2001). Governmental saliency for environment is measured by the percentage of quasi-sentences related to the environment, where high values indicate a high saliency. These measures are based on party manifestos. To calculate values for the government I weighted them by the number of cabinets posts (Kim and Fording 2001)²⁶. Because of data availability these values can only be calculated up to the first Presidency of 2001. It should be noted that this indicator is not perfect. Party manifestos represent strategic self-representation in a particular national environment during the election campaign (Laver 2001; Mair 2001). Thus, parties might not overly stress their environmental concerns, for example, if all parties have basically the same view on the subject. Furthermore, party manifestos are drawn up with a view to other parties engaged in the election, not with a view to parties comprising governments in other member states (cf. Mair 2001: 16-17). An analysis of several expert surveys and the party manifesto data, however, reveals only mixed evidence for an effect of the national space on party positions (McDonald, Mendes et al. 2007: 71-3). Nevertheless, I cross-validate the measurement of salience based on party manifestos with an analysis of speeches by the Council Presidency.

The salience values for environment for the Council presidencies from 1984 through 2001 are presented in Table 6.2. The second column reports the governmental salience for environment based on party manifesto data. Generally, Council presidencies by Northern countries exhibit higher values.

²⁶ The Italian administration during their Presidency in 1996 (Dini I) consisted entirely of independents. Instead of the cabinet composition I used the distribution of seats in Parliament. In general, I excluded cabinet ministers without partisan affiliation when calculating the distribution of cabinet posts.

Besides the salience values based on party manifestos, Table 6.2. also presents the percentage of space devoted to environment in the speech by the Council Presidency. I derived this measure by manually coding the speeches each Presidency gives to the European Parliament at the beginning of its term in office.

Table 6.2. Salience of Environmental Policy, 1984 - 2001

Party Manifesto			Presidency Speeches		
Rank	Council Presidency	Salience	Rank	Council Presidency	Salience
1	1994 Germany	13.07	1	2001 Sweden	30.28
2	<i>1991 Netherlands</i>	11.10	2	1990 Ireland	22.73
3	<i>1988 Germany</i>	9.38	3	1998 United Kingdom	19.67
4	<i>1999 Germany</i>	9.07	4	2000 France	15.22
5	<i>1992 Portugal</i>	7.88	5	1993 Belgium	14.67
6	1990 Ireland	7.24	6	1998 Austria	13.90
7	<i>1994 Greece</i>	6.57	7	1994 Germany	11.29
8	<i>1985 Luxembourg</i>	6.56	8	1989 France	10.84
9	<i>1997 Netherlands</i>	6.44	9	1985 Italy	9.09
10	<i>1992 United Kingdom</i>	5.80	10	<i>1986 Netherlands</i>	7.13
11	<i>1991 Luxembourg</i>	5.76	11	<i>1990 Italy</i>	6.48
12	<i>1999 Finland</i>	5.55	12	<i>1985 Luxembourg</i>	6.48
13	<i>1993 Denmark</i>	5.18	13	1984 Ireland	6.22
14	2000 France	5.15	14	1988 Greece	5.63
15	<i>1990 Italy</i>	4.92	15	1996 Ireland	5.04
16	<i>1986 Netherlands</i>	4.80	16	<i>1991 Luxembourg</i>	4.51
17	1997 Luxembourg	4.73	17	1989 Spain	4.20
18	1987 Denmark	4.68	18	1995 Spain	4.06
19	2000 Portugal	4.63	19	1996 Italy	3.54
20	1993 Belgium	4.44	20	1984 France	2.71
21	1995 Spain	4.39	21	1997 Luxembourg	1.80
22	1987 Belgium	3.83	22	1987 Belgium	1.50
23	1988 Greece	3.55	23	<i>1988 Germany</i>	1.18
24	1986 United Kingdom	3.40	24	1986 United Kingdom	0.00
25	1998 United Kingdom	3.37		1987 Denmark	0.00
26	1996 Italy	2.54		<i>1991 Netherlands</i>	0.00
27	1998 Austria	2.33		<i>1992 Portugal</i>	0.00
28	1984 Ireland	2.32		<i>1992 United Kingdom</i>	0.00
29	1989 Spain	2.21		<i>1993 Denmark</i>	0.00
30	2001 Sweden	1.95		<i>1994 Greece</i>	0.00
31	1989 France	1.70		1995 France	0.00
32	1996 Ireland	1.40		<i>1997 Netherlands</i>	0.00
33	1995 France	0.73		<i>1999 Germany</i>	0.00
34	1985 Italy	0.72		<i>1999 Finland</i>	0.00
35	1984 France	0.32		2000 Portugal	0.00

Nb. *Italics* denote above average values for salience based on party manifestos. **Bold** print denotes above average values for salience based on Presidency speeches (excluding 0 values).

Source: Budge, Klingemann et al. 2001, own analysis

12 out of the 35 Council presidencies in the period 1984 through 2001 do not devote a noticeable part of their speeches to the topic of environmental policy. The remaining 23 Council presidencies on average devoted 9 per cent of their speeches to environmental concerns. Nine Council presidencies devote a higher percentage to environmental policy. Three of those also exhibit above average values on the salience measure based on party manifestos. There are, however, noticeable deviations between these two measures. The most striking discrepancy occurs in the case of the Swedish Council presidency in 2001. The Swedish presidency put by far the greatest emphasis on environmental concerns in the speech outlining its programme. The Swedish government, however, only ranks 30th out of 35 in the salience attached to environment in its party manifesto. Thus, the difference in ranks between the two measurements is 29 out of a possible 35. Presumably the Swedish government did take environmental concerns more seriously than implied by the emphasis given to it in its party manifesto. Table 6.3. lists the ranks and the respective differences between ranks for all six Council presidencies, which exhibit above average values in the measurement based on their speeches but below average values in the measurement based on party manifestos.

Table 6.3.: Differences in Rankings of Salience

Council Presidency	Difference	Ranking (Party Manifesto)	Ranking (Speech)
Sweden 2001	29 (18)	30 (19)	1 (1)
Italy 1985	25 (13)	34 (22)	9 (9)
France 1989	23 (12)	31 (20)	8 (8)
United Kingdom 1998	22 (11)	25 (14)	3 (3)
Austria 1998	21 (10)	27 (16)	6 (6)
Belgium 1993	15 (15)	20 (20)	5 (5)

Nb. Numbers in parentheses give the values for the 23 Council Presidencies, which do not have a value of 0 for salience based on their speech.

The ranking based on speeches cannot distinguish between 12 presidencies, as they all have a value of zero. The numbers in parentheses in Table 6.4. report the value based on the 23 Council presidencies, which did address environmental concerns in their speech. The average difference in ranks for these 23 presidencies is 7.5. All Council Presidencies listed in Table 6.3. exhibit a higher value.

Thus, although the rankings provide a similar picture overall, the measurement based on party manifestos produces some dubious results. Most notable is the case of the Swedish Presidency in 2001. The analysis will take these potential measurement problems into account.

With regard to policy positions, a North-South divide is frequently identified by the descriptive literature (Weale, Pridham et al. 2000: 468-74). Besides the Scandinavian countries Austria, Germany and the Netherlands are sometimes characterized as environmental leaders (Table 6.4.).

Author(s)	Environmental leaders
McCormick (2001: 55 and 66)	Austria, Denmark, Germany, Finland, the Netherlands, Sweden
Wurzel (2002: 77)	Denmark, Germany, the Netherlands
Andersen and Liefferink (1997)	Austria, Denmark, Germany, Finland, the Netherlands, Sweden
Jordan and Liefferink (2004: 236)	Germany, the Netherlands, Sweden

A comprehensive measure of policy positions on European legislation on environment is provided by the implementation record of member states. The implementation rate incorporates both, the salience attached to environment and the position on European legislation. It can only serve as a proxy, however, as the implementation record is not only determined by the policy position but also by the administrative capacity of a member state. Table 6.5. lists the implementation rate for environment and the average implementation rate for all policy fields (in brackets, not available for 1997) from 1990 through 1999. The last column gives the ratio of year in which the implementation rate for environment was higher than the overall implementation rate to the number of years for which data is available. The second to last column gives the same ratio for

implementation rates in environment that were above the average of all countries for that year.

Austria, Denmark, The Netherlands and Sweden are countries that have been identified by the descriptive literature as environmental leaders and have consistently an above average implementation record in environmental policy. The implementation record can be used to gauge the member state's position vis-à-vis the environment. Environmental leaders will welcome European legislation on environment and implement it, while laggards will hesitate to do so. The implementation rate in environment has to be interpreted against the backdrop of the overall implementation record. Germany has in 8 out of 10 years an above average implementation record when compared to other countries in the same year. This might be due, however, to the fact that it has a high implementation rate in general. Only in 3 out of 9 years is the implementation rate for environment higher than the average across all policy fields. The situation for Finland is the other way round. Although its implementation record in environment is nearly always better than its general implementation rate, it fails to have live up to the standard set by other countries in most of the years. To use a conservative measure, I will define only Austria, Denmark, The Netherlands, and Sweden as environmental leaders when controlling for policy positions in the subsequent analysis.

Table 6.5.: Implementation Record of Member States (in per cent), 1990-1999

	1990	1991	1992	1993	1994	1995	1996	1997	1998	1999	Above average	Above overall
Austria	-	-	-	-	-	92 (84)	94 (88)	97	97 (95)	95 (95)	3/5	3/4
Belgium	86 (92)	81 (88)	94 (91)	91 (91)	85 (90)	83 (89)	86 (93)	87	92 (95)	96 (95)	2/10	2/9
Britain	91 (95)	85 (95)	93 (93)	90 (92)	82 (89)	93 (95)	94 (94)	96	95 (96)	96 (95)	4/10	1/9
Denmark	99 (97)	98 (97)	99 (96)	98 (95)	<i>100</i> (98)	98 (98)	96 (98)	100	99 (98)	99 (97)	10/10	7/9
Ireland	87 (91)	84 (89)	90 (91)	88 (89)	<i>97</i> (92)	95 (93)	96 (93)	98	98 (95)	97 (94)	6/10	5/9
Italy	63 (82)	59 (77)	83 (89)	81 (89)	76 (88)	85 (89)	85 (90)	97	96 (93)	99 (94)	1/10	2/9
Germany	92 (95)	92 (93)	92 (90)	91 (89)	91 (91)	94 (93)	96 (94)	94	97 (97)	95 (95)	8/10	4/9
Greece	79 (85)	76 (90)	86 (88)	84 (88)	85 (87)	88 (90)	91 (91)	97	95 (94)	95 (92)	0/10	2/9
Finland	-	-	-	-	-	87 (71)	86 (81)	96	<i>100</i> (97)	97 (96)	2/5	4/5
France	92 (94)	89 (95)	96 (93)	95 (89)	94 (92)	95 (93)	93 (92)	96	97 (94)	97 (94)	9/10	7/9
Luxembourg	89 (90)	86 (87)	92 (88)	92 (91)	93 (94)	92 (94)	96 (93)	98	99 (94)	97 (93)	10/10	5/9
Netherlands	97 (93)	95 (90)	97 (93)	92 (92)	98 (94)	98 (97)	98 (97)	99	<i>100</i> (97)	99 (96)	10/10	8/9
Portugal	95 (94)	94 (86)	89 (89)	90 (92)	82 (97)	87 (90)	94 (92)	97	95 (95)	97 (93)	4/10	4/9
Spain	92 (94)	92 (92)	<i>91</i> (90)	90 (90)	86 (91)	90 (93)	94 (95)	99	98 (97)	95 (96)	5/10	2/9
Sweden	-	-	-	-	-	94 (93)	95 (94)	97	98 (97)	99 (96)	4/5	4/4
Average	88.5	85.9	91.8	90.2	89.1	91.4	92.9	97	96.9	96.7		

Nb. Rounded figures. Figures in brackets denote the overall implementation record. **Bold** print indicates an implementation rate in environmental policy that lies above the average for all member states (in the last two columns: more than half of the years above average/overall implementation rate), *italics* a higher implementation rate in environment than overall for the country in that year. Numbers for 1997 are for directives only.

Sources: Wurzel (2002: 69), European Commission (various years), own calculations

6.5. Governmental Saliency in the Council and Legislative Activity

A straightforward expectation would be that legislative activity in a given field depends on the importance governments in the Council attach to that policy field. Thus, if the Council members attach a higher importance to environmental policy in one period compared to another period, we would expect more environmental proposals to be addressed in the first period. Before proceeding to the relationship between the saliency of the Council presidency and legislative activity, we will consider the effect of the average saliency of all Council members on legislative activity. Using the mean governmental saliency of the member states assumes that all member states have an equal impact on decision-making. Idiosyncratic factors aside, this is true for decisions made by unanimity. The Maastricht treaty allowed for decisions on environmental policy to be taken by qualified majority. Before 1993, the Single European Act introduced qualified majority for common market decisions, which were sometimes used for environmental policy as well. Table 6.6. lists the correlation between the ratio of pending to addressed proposals and the average saliency of member states. It also presents the correlation values for the weighted average, where the weights are derived from the relative power a member states holds due to its vote share²⁷. The values were calculated for the period starting with the entry into force of the Single European Act and the Maastricht treaty respectively.

Table 6.6.: Average Saliency in the Council and Legislative Activity

Average Saliency	N	Pearson's R	P-Value
Unweighted	30	-.321	.084
Weighted (SEA)	30	-.345	.062
Weighted (Maastricht)	30	-.417	.022

²⁷ Following Felsenthal and Machover (1997) I used the relative Banzhaf index.

There is a negative correlation between the importance that member states attach on average to environmental policy and the ratio of addressed to pending proposals in this policy field²⁸. The correlation is more pronounced for the average weighted by the voting power of the member states. The correlation for the weighted average is statistically significant at the 10 and 5 per cent level respectively. The strongest relationship exists between the ratio and the average salience, using weighted values with the entry into force of the Maastricht treaty. Given its statistical significance, a weighted average for the salience the member states attach to the field of environmental policy should be included in the multivariate analysis as a control variable. The negative relationship, however, warrants further investigation in future research. If the Council members attach more importance to the environment, they should be more and not less active in this area. Due to the focus of this study on the effect of the Presidency, this will not be pursued further here.

6.6. The Council Presidency and Legislative Activity: Bivariate Analysis

The empirical analysis is presented in two steps. This section presents the bivariate analysis; the next section discusses the results of the multivariate regression analysis. Due to missing data, most of the regression models presented here are based on 32 or 28 Presidencies. Some econometricians argue that more than 30 observations are sufficient (Wooldridge 2000: 169), while others would maintain that a much larger sample size is necessary to make confident claims about inference in regression analysis. Hence, the results of the multivariate analysis should be taken with a pinch of salt. However, using

²⁸ Note that this data is only available for the period 1984 through 1998. As with the values for the Council Presidency, the data is aggregated into six-months periods. If there was a change of government during a six-month period, the values for the new government are only adopted if the new government has been in office for at least half of the period. Otherwise, the new values were only used starting with the next period. There was a change of government, making it necessary to use new values for 1999. The party manifesto data for this election is, however, not yet available.

regression analysis does allow us to corroborate the findings of the bivariate analysis while controlling for crucial intervening factors.

Figure 6.1. plots salience of the Council Presidency (broken line) and the proportion of pending proposals (solid line) that have been addressed in the first reading in the Council in the field of environment for the time period 1984 through 2001²⁹. The figure highlights the variability of legislative activity on environment policy across different Presidencies. During the Spanish Presidency in 1995 not a single environmental proposal had been addressed, although 29 were pending. On the other side of the spectrum, the German Presidency in 1988 addressed 10 (out of 22) proposals. Interestingly, there seems to be a downward trend. More environmental proposals were addressed before the entry into force of the Maastricht treaty than afterwards when taking the rising number of pending proposals into account.

The curves for salience of the Council Presidency and legislative activity are very similar for some sections of the graph, suggesting a positive relationship between salience and activity. This holds true for the period starting with the Belgian Presidency in 1987 and ending with the Presidency of Greece in 1989. A positive relationship between salience and legislative activity is also suggested by the data points from the French Presidency in 1989 to the one of the United Kingdom in 1992. The same can be said about the period from the Austrian Presidency in 1998 to the French Presidency in 2001. These segments account for 16 out of 35 data points. However, some period do not confirm our expectation of a positive relationship between the salience attributed to

²⁹ The ratio of addressed to pending proposals for a given Council Presidency might be influenced by the legislative activity in the preceding periods. In fact, the number of pending proposals in each period is auto-correlated. This also holds true for the ratio of addressed to pending proposals, which are auto-correlated for a lag of at least 2 periods. The number of addressed proposals, however, is not auto-correlated. The multivariate analysis controls for auto-correlation where appropriate.

environmental policy by the government holding the Council Presidency and legislative activity. Examples are the periods from the Luxembourg Presidency in 1985 to the Belgian Presidency in 1987 and the period from the Irish Presidency in 1996 to the Austrian Presidency in 1998. Some data points also show a stark discrepancy to our expectations of a positive relationship between salience and legislative activity. The French Presidency in 1984 and the German Presidency in 1994 stand out in this respect. France has the highest rate of legislative activity, 47 per cent (8 out of 17) of pending environmental proposals have been addressed during its presidency. It has, however, the lowest value for governmental salience for the whole period (0.32) and only ranks 20th in the emphasis given to environment in its speech. The German Presidency in 1994 has the highest value for governmental salience (13), but manages only to address 10 per cent (3 out of 28) of pending environmental proposals. This success rate is well below the average of 23 per cent and Germany Presidency in 1994 only occupies the 28th rank (out of 35).

A scatterplot of salience and legislative activity (Figure 6.2.) suggests a weak linear relationship with two extreme outliers, France 1984 and Germany 1994. There is a noticeable amount of scatter around the diagonal line which denotes a perfectly linear and positive relationship between salience and legislative activity. The deviation from the diagonal is more pronounced in the half with higher than expected success rates. Interestingly, the relationship is much stronger when we only consider the Council Presidencies in the (shorter) second half year. For the Council Presidencies in the first half year there does not seem to be any relationship at all.

Figure 6.1.: Salience of the Council Presidency and Legislative Activity, Environmental Policy 1984-2001

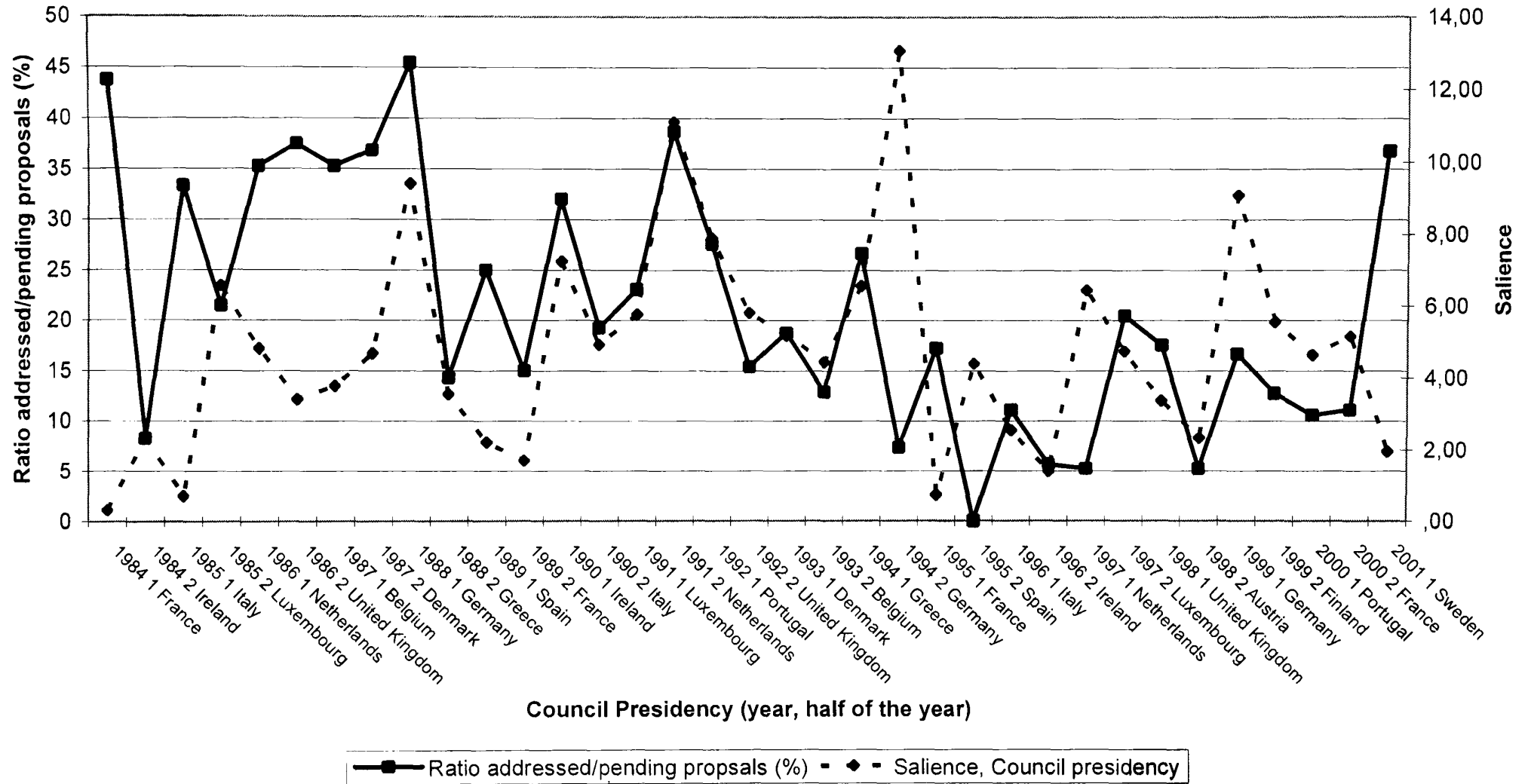
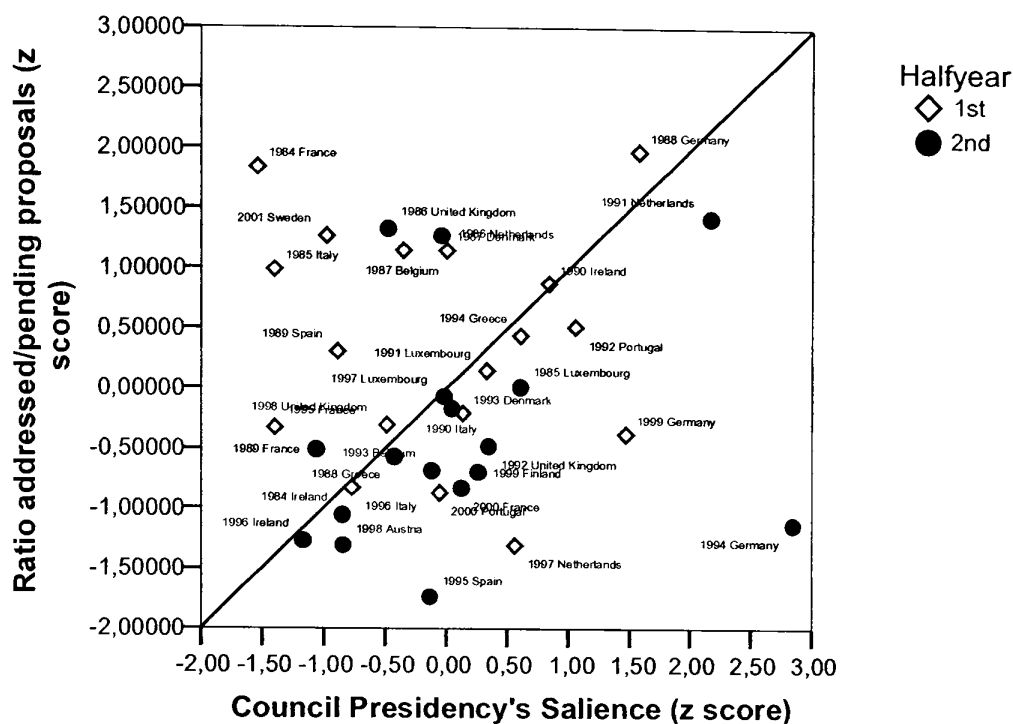


Figure 2: Council Presidency's Salience and Legislative Activity (z scores), Scatterplot



A potential measurement problem was pointed out for the case of the Swedish Presidency in 2001. Although it put by far the greatest emphasis on environmental concerns in the speech outlining its programme for its presidency, it has a very weak value on governmental salience based on party manifestoes. This means that our expectations for the success of the Swedish Presidency in 2001 in addressing a higher proportion of environmental proposals should be higher than suggested by the value based on party manifestos. And indeed Sweden in 2001 has a much higher value of addressed proposals than the other Council Presidencies with a similar value on the party manifesto variable. The same holds true for the Italian Presidency in 1985, the value with the second highest discrepancy between ranks for salience based on party manifestos and working programme.

The bivariate correlations between salience and legislative activity (Table 6.7.) confirm the results won from an inspection of the graphs. The two variables do not correlate if we consider all data points. This also holds true if we exclude the cases for which the

ranking of salience based on the party manifestos and working programme diverge substantially.

Table 6.7.: Council Presidency Salience and Legislative Activity

	N	Pearson's r	P-Value
All	35	.05	.747
Without cases of measurement problems	29	.09	.642
Without outliers (France 1984, Germany 1994)	33	.30	.087
Without outliers and Sweden 2001	32	.37	.039
Without outliers and cases with measurement problems	27	.42	.031

If we exclude only the outliers France 1984 and Germany 1994, however, we get a weak positive relationship that is significant at the 10 per cent level. For the 32 (out of 35) data points (excluding two outliers and Sweden 2001) the relationship is positive and significant at the 5 per cent level ($p=.039$). In other words, for more than 90 per cent of the cases there is a positive and statistically significant relationship between the importance the Council Presidency attaches to environmental concerns and the proportion of pending proposals in this policy field which have been addressed. One of the cases that were not included in this calculation is the Swedish Presidency in 2001, where there is considerable doubt about the validity of the measurement based on party manifestoes. The two cases where the divergence of salience rankings is the strongest are both outliers. The other four cases which might not represent a valid measurement, on the other hand, confirm to our expectations. Excluding them as well, however, does not change the result. In fact, the positive relationship between salience and legislative activity becomes even more pronounced. Excluding all the cases, where there might be a problem with the measurement of the independent variable, and the two outlier results in a positive relationship ($r=.42$) that is significant at the 5 per cent level ($p=.031$).

In sum, there is some evidence that the importance the Council Presidency attaches to environmental policy has an impact on legislative activity in this field.

6.7. The Council Presidency and Legislative Activity: Multivariate Analysis

The bivariate analysis is limited insofar it does not (easily) allow to control for several variables and due to the coarseness of the dependent variable. For the multivariate analysis a different independent variable will be used, namely the number of addressed proposals during each presidency, and control variables will be introduced, including the number of pending proposals. Multivariate analysis also allows to test the hypothesis of an impact of the Council Presidency directly against the alternative hypothesis that legislative activity is based only on the salience attributed to a policy field by all member states collectively. By including the (weighted) average salience of environment for the Council members in the model, we can test whether or not the salience of the member state holding the Presidency has an additional impact on legislative activity.

The dependent variable of the multivariate analysis is a count variable, which can by definition not exhibit negative values. Using linear regression models for this type of data can result in inefficient, inconsistent, and biased estimates. Instead Poisson regression models should be used. Poisson models sometimes underestimate the amount of dispersion in the outcomes, which can be corrected for by using a negative binomial regression (Long 1997). In cases of overdispersion the Poisson regression will result in downward biased standard errors which lead to spuriously low p-values (Cameron and Trivedi 1986).

Besides the number of pending proposals and the weighted average of salience for all Council members, control variables for the position on environmental regulation of the Council presidency, the number of pending regulations, the number of pending

proposals that could be adopted by qualified majority and the half of the year during which the Council Presidency was in office are introduced in some of the models. The position on environmental regulation at the European level is incorporated by a dummy variable, which identifies environmental leaders (Austria, Denmark, Netherlands, and Sweden). The variable is included to control for the position of the Council Presidency. *Environmental leaders* are coded as 1, thus we would expect the coefficient of this variable to be positive. The *number of pending regulations* captures the overall difficulty involved in addressing the pending proposals. Legislative activity might differ across Presidencies simply because some Presidencies faced more difficult issues. Regulations are general and immediately binding pieces of legislation. It should be harder to pass a regulation than a decision or a directive. Thus, the coefficient should be negative. Legislation that can be enacted by *qualified majority*, as opposed to unanimity, should be easier to address, thus the coefficient should be positive. Finally, a dummy for the part of the year in which the Council Presidency's term of office falls is included in the analysis (*half year*). Due to the vacation period in August, Presidencies in the second half year might be less successful to reach agreements simply because they had less time. The variable is coded as one when the Council Presidency was in office during the first, longer half year. Thus, the coefficient should be positive.

Following Agresti and Finlay (1997: 310-1) I excluded the outliers from most estimations. Once the outliers and Sweden 2001 are excluded, all but one of the models including control variables (model 5) consistently estimate a positive relationship between the salience the Council Presidency attaches to environmental policy and legislative activity in this field in the Council. The relationship is statistically significant at the 10 per cent level. For model 2 it is statistically significant at the 1 per cent and model 7 at the 5 per cent level. When all control variables are included (model 8), the

regression coefficient for Council Presidency salience is .146, which is significant at the 10 per cent level ($p=.057$). Each increase in the Council Presidency salience by a standard deviation leads to an increase in legislative activity by 15.7 per cent, holding all other variables constant. Model 2 also yields significant results for the size of the Member States holding the Presidency. As could be expected, bigger Member States tend to address more proposals during their term in office. Paradoxically, the interaction term is negative. When including procedural variables into the model (model 5), however, the size of the Member States and the interaction effect with salience give statistically insignificant coefficient with an indeterminate sign in the 90%-confidence interval. Thus, a clear relationship between the size of the country holding the Council Presidency and its legislative activity cannot be established. The only other variable displaying robust results besides Council Presidency's salience is the weighted average of the salience of Council members (models 7 and 8). Contrary to expectations it has a negative sign. The number of proposals that can be adopted by qualified majority does not yield statistically significant coefficients once the weighted average of salience is included into the model.

Table 6.8.: Results of Regression Analysis

Dependent Variable=Number of proposals addressed in the Council

Model	1	2	3	4	5	6	7	8
Regression type	Neg. B.				Poisson			
Cases	All	w/o outlier (France 1984, Germany 1994) and Sweden 2001			w/o outlier, up to 1999			
Saliency, Council Presidency	.012 (.032)	.142*** (.04)	.062* (.035)	.064* (.038)	.109 (.07)	.081* (.043)	.085** (.043)	.146* (.076)
Big Member State		.646** (.356)			.418 (.466)			.389 (.494)
Interaction, Big Member State and Saliency		-.105** (.059)			-.054 (.079)			-.087 (.089)
Number of pending regulations			-.071 (.067)	.074 (.077)	.043 (.086)	.142 (.093)	.152* (.091)	.154 (.101)
Number of pending QMV proposals			-.045*** (.01)	-.045*** (.011)	-.044*** (.011)	-.037** (.017)	-.029 (.018)	-.026 (.018)
Half year			.257 (.158)	.248 (.163)	.223 (.167)	.312* (.178)	.329* (.178)	.287 (.184)
Environmental leader				-.184 (.507)	.022 (.594)	-.184 (.524)	-.217 (.524)	.046 (.603)
Interaction, Environmental Leader and Saliency				.008 (.076)	-.02 (.096)	-.005 (.082)	.003 (.081)	-.06 (.099)
Average Saliency, Member States						-.203 (.139)		
Weighted Saliency, Member States							-.257* (.136)	-.301** (.151)
N	35	32	32	32	32	28	28	28
Pseudo R ²	-	.075	.184	.187	.192	.196	.205	.212

Note. All models including the number of pending proposals as an exposure variable. Model 1 uses Newey-West estimators (lags=11) to correct for auto-correlation. The coefficient for the constant is not reported. Standard errors in brackets. ***= p<0.01. **= p<0.05. *= p<0.1

All other control variables, including the variables capturing the status as a leader or laggard of a Council Presidency in environmental policy, are generally not statistically significant at the 10 per cent level. The number of pending regulations only yields a significant coefficient in one of the six models in which it was included (model 7). The dummy variable for the half year in which the Council Presidency was in office yields a statistically significant result in two out of six models (models 6 and 7).

In sum, the Council Presidency in general has a notable positive and statistically significant impact on legislative activity in the field of environmental policy. This holds true even when controlling for the general level of importance attached to environment by all Council members and the position of the Council Presidency on European environmental regulation besides other factors. The impact of the size of the Member States holding the Presidency on its performance could not be determined in a conclusive manner.

6.8. Conclusion

Scholars and practitioners alike have often pointed to the influence the Council Presidency might have on the internal politics of Council negotiations. We can distinguish analytically between the Presidency's ability to push for agreements and to influence policy outcomes. If a policy field is particularly salient to a Presidency and it welcomes European-wide regulation in this area, it will utilize its powers to lead pending negotiations in the Council to a conclusion. As discussed in my theory chapter, the Council Presidency can influence decision outcomes by focusing resources to overcome obstacles to political agreements and providing a focal point for negotiations. The Presidency will allocate resources according to its national priorities. Hence we should observe a positive relationship between the salience the Presidency attaches to an

issue and legislative activity in this field (Hypothesis 1). The case study presented in the preceding chapter has illustrated the effect of the Presidency's salience on legislative activity in the field of occupational health and safety. This result is confirmed by the statistical analysis presented in this chapter. Scrutinizing the legislative activity in environmental policy during the 35 Council Presidencies from 1984 to 2001 yields evidence that legislative activity in the Council is linked to the importance the Council Presidency attaches to this policy field. The Council Presidency does steer the Union's legislative agenda on environmental policy. This holds true even when controlling for the general level of importance attached to environment by all Council members and the position of the Council Presidency on European environmental regulation besides other procedural factors. For two Presidencies (France 1984, Germany 1994), however, this relationship does not seem to hold. The evidence with respect to a difference in the performance of Presidencies from small and big Member States is inconclusive.

'"Power" is an elusive concept. Political power especially so.'

(Dowding, 1991)

Chapter Seven

The Effect of the Council Presidency on Decision Outcomes

7.1. Introduction

A common expectation is that the Council Presidency plays a special role in Council deliberations. The proceeding chapter has shown that the Presidency does indeed have an impact on legislative activity. This chapter is concerned with the Presidency's influence on policy outcomes. As outlined in chapter 4, there are theoretical reasons to believe that the Presidency benefits disproportionately during its term of office (Hypothesis 2). The influence of the Council Presidency can be due to a procedural asymmetry, its prerogatives of making proposals, and/or informational asymmetries. I am initially assuming that these features are of particular relevance in the closing stages of negotiations of the Council's first reading. As has been discussed in chapter 3, however, the powers of the Presidency might be negligible (or too marginal to be detectable). Yet, a Presidency might also forego potential gains and make sacrifices to reach an agreement, if it feels that this would be beneficial for increasing its reputation. Thus, there are theoretical reasons for all three possible scenarios: the Presidency might confer additional power, it might not have any effect, or it might induce the office holder to make sacrifices.

To study the effect of the Council Presidency empirically, I will use two complementary research designs. Firstly, I will compare the impact of a country during a period in which it holds the Presidency to one in which it takes part in Council negotiations as an ordinary member. The 'political clout' (and in particular, the voting power) of a member state is thus held constant. A drawback of this research design is that the investigation is limited to member states for which enough data is available during its Presidency. Hence, my analysis is limited to France and Germany. Secondly, I will compare the influence of a member state in office to the other 'ordinary' Council members. This implies that I will need to look at the factors giving influence to a member state more generally. But it allows me to look at a broader range of cases involving all member states. Several control variables are included in the multivariate analysis to make the comparison meaningful and to rule out other confounding effects such as voting power.

Power is not only the most central concept in political science, it is also probably the most elusive one. Power cannot be measured directly; we can only attribute power to an actor because of its influence on decision-making. I use two complementary measurement strategies to establish whether or not an actor was powerful. The first strategy uses the absolute utility gain of a member state to determine whether or not it benefits from a decision. This is used as an indicator of potential influence. Furthermore, we need to distinguish between power and luck. The multivariate analysis controls for the number of other actors who also profited from an outcome. The second strategy relies on two baseline models, the pivot and compromise model. These general bargaining models are used to estimate the counterfactual outcome excluding the (potential) effect of the Presidency. As it incorporates the position (as well as (voting) power and salience in the case of the compromise model) of all Council members, we

do not have to control for the position of other member states in a second step to distinguish between power and luck. Thus, the use of counterfactuals allows us to control for the crucial distinction between power and luck directly.

My analysis differs from existing quantitative studies in two principal ways. Firstly, I use two bargaining models to establish a counterfactual outcome. Whether or not decision-making in the Council is a consensual process or hard bargaining is unclear, hence I use two complementary models. Secondly, I treat the data gathered by the 'Decision-making in the European Union'-project not as an absolute measurement. As I will argue below, due to the measurement technique positions cannot be compared directly across issues. Hence, my analysis proceeds on the issue level.

The chapter proceeds as follows: the next section discusses in depth how power is defined and the difficulties in measuring power. To establish whether or not the office of Presidency confers power, I will use two complementary measurement designs which are also explained in this section. Section 3 discusses research design, data and measurement. Comparing across time, I discuss in detail for two Presidencies (France and Germany) if they have benefited from decision outcomes (section 4). Subsequently, I present the results based on a comparison across countries (section 5).

7.2. The Meaning and Measurement of Power

Power is commonly understood as the capacity to influence events (Lasswell and Kaplan 1950; Harsanyi 1962; Dahl 1968; Barry 1980; Morriss 1987; Dowding 1996). It was most famously defined by Max Weber to be 'any opportunity (*Chance*) to assert one's interest in a social relationship, even against resistance, regardless of its base'

(Weber 1922, my translation). Power can be likened to a causal mechanism insofar as it shares characteristics that also define causation such as covariation, temporal sequence, and asymmetry (March 1955; Dahl 1968). For power to be a causal factor, the exercise of power and the final outcome have to be correlated (cf. Dahl 1957). In the case of a dictator, the content of his decision should covary with the change of behaviour of his subjects. Furthermore, the exercise (or the perception) of power takes place prior to the establishment of the outcome (Dahl 1957). The dictator's decision has to precede the change of behaviour. Alternatively, the subjects anticipate the dictator's future decision and change their behaviour accordingly (Simon 1953; Dahl 1968). Finally, in a power relation one of the parties will be superior to the other, implying that power relations are asymmetrical (Simon 1953; March 1955). The (ideal-typical) dictator holds sway over his subjects; the subjects do not hold power with regard to the dictator. Naturally, power relations between two persons do not have to be unidirectional. Power relations in the same group can vary in different situations.

Weber's definition refers to the possibility of resistance, which would be overcome by a powerful actor. This is crucial; a powerful actor has to be decisive in bringing about the outcome. We know that an actor has power, if a different outcome would have prevailed if the actor would not have been present. Otherwise, a beneficial change in the state of the world might have been caused by luck, rather than power (Dahl 1968; Barry 1991; Dowding 1991). Thus, power 'gives its possessor the opportunity to change outcomes from what they would otherwise have been, in the direction that the possessor wishes.'

(Barry 1991: 272)

Measuring power involves several difficulties. Firstly, power cannot be observed directly (Dowding 1996: 4). Instead, power is attributed to an actor if an outcome is

favourable to an actor. This reasoning is only compelling if all other causes can be discarded. It is strengthened if an actor is consistently favoured by the outcome of decision-making situations. Even if an actor benefits from a policy outcome, however, we cannot necessarily assert that he is powerful. 'Just getting what you want is not enough to demonstrate power, for one may simply be lucky.' (Dowding 1996: 52)

Secondly, an actor might choose not to exercise his influence. Power is a capacity to act, an actor hence might refrain from doing so. If by using his power an actor incurs some costs (Harsanyi 1962), he would not act unless the benefits outweigh the costs. Thirdly, an actor might use his power to prevent an event from happening. An actor who has gate-keeping power, for instance, could prevent a decision from even being considered if he prefers the status quo (Bachrach and Baratz 1962). The first complication would lead us to overestimate the power of an actor, whereas the latter two would have the opposite effect.

Measuring power empirically is a daunting task. I pursue two complementary measurement strategies. Firstly, I calculate if a member state benefited from a decision, i.e. if the decision represents an improvement to the policy that would have prevailed otherwise (usually the status quo). If a member state profits, this might be due to its power or its luck. An actor might have not exercised any influence whatsoever and still profit from a decision, because the interests of powerful actors coincided with its own. To control for this I include a variable measuring the support of other Council members (and the supranational actors). Secondly, I calculate a counterfactual outcome based on a baseline model of decision-making. The baseline models provide a prediction of the outcome taking several factors into account, but do not consider the effect of the Council Presidency. If an actor benefits more from a decision than it would have from this counterfactual result, then this might be due to powers of the Presidency. I will use

two baseline models, the pivot and compromise model, both of which include the positions of the other Council members. Hence, there is not need to control for it in the empirical analysis.

In theory testing, baseline models usually provide a yardstick to gauge whether or not a model's predictions are closer to the observed outcome than expectations which do not build on the insights provided by the model. A model has predictive power if it yields a better prediction of an outcome than an atheoretical estimate would provide (Achen 2006). In counterfactual reasoning, baseline models are even more important as they are needed to describe the state of the world safe one factor. In the present context, the baseline models should give us the outcome that would have prevailed if the office of the Council Presidency did not exist. If the baseline model takes all other relevant factors in Council negotiations besides the Presidency into account and observed outcomes systematically deviate from the predictions the baseline models yield, then we found evidence that the Presidency does have an influence on policy outcomes. Relative to absolute utility change, the comparison of actual outcomes to counterfactual outcomes represents a more sophisticated analysis as it incorporates a control for the effect of luck directly. For absolute utility change, the positions of other actors have to be included as a separate control variable. As the discussion below will demonstrate, this is only feasible in a very crude manner.

Factors that are commonly held to be influential in Council decision-making are the preference configuration of member states and their voting power. A weighted median, where the weights are formed by the relative voting power of member states, would combine these two factors in a straightforward manner. If players are agreeing on a decision solely based on their preferences for the (one-dimensional) issue at hand, the

outcome will be the ideal position of the pivotal player, i.e. the (weighted) median voter. Alternatively, one could imagine a ‘split-the-difference’ result, where the mean position would be the outcome. A weighted mean, in fact, forms the bases of many (formal and informal) bargaining models in political science (Achen 2006). The compromise model, for example, predicts that a decision on a given topic ‘takes all positions of member states into account, weighting these by the resources a member state can apply during the negotiations and the importance each attaches to the decision at hand’ (van den Bos 1991). Thus, the compromise model’s forecast is the weighted mean position, where the weights are capabilities and the intensity of preferences³⁰. In the ‘Decision-making in the European Union’ project the predictive power of the compromise model was tested empirically (Thomson, Stokman et al. 2006). In a pair wise comparison, the compromise model consistently yields better predictions more often than all the other models. It also fares better, although only slightly, than the (simple) mean (Achen 2006). The comparison did not include the pivot model.

Legislative decision-making in the Council can be modelled as a consensual process or as hard bargaining. The first type of models is represented by the compromise model. It is based on the assumption that a group collectively optimizes their utility from a decision. Furthermore, it assumes that reaching any agreement is strongly preferred to the status quo by all actors. Thus, division between member state governments over the exact outcome is secondary to agreement on the necessity to adopt any EU legislation. The argument is that all member states value the existence of the Union per se and are thus willing to make sacrifices on individual policies (Achen 2006: 101-4). However, the member state governments represented in the Council are ultimately interested in being re-elected in the domestic arena. Hence they have rather short time horizons and

³⁰ Given certain assumptions about the preferences, the compromise model is equivalent to the Nash Bargaining Solution (Achen 2006: 100)

might view the European Union as a mere instrument for reaching decisions. In addition, after decades of EU legislation policies that are universally accepted as superior have already been adopted making. Thus, the division on how to amend existing EU legislation rather than the consensus on the desirability of EU law will be dominant in decision-making. Furthermore, decision-making in the Council arguably takes place issue by issue (König 2005: 368). The fragmentation of decision-making in the Council (Hayes-Renshaw and Wallace 2006: Ch. 3) and the changes of the Council's composition due to national elections impair vote trading or other mechanism that would secure collective agreements. The transaction costs involved in establishing a package deals in this environment, for example, might be prohibitive (Moravcsik 1993: 505; Golub 1996: 13-14). In this view, actors would insist on their positions and maximize any bargaining advantage they might have. This can be captured by the pivot model. Proponents of the consensual view point to the frequent occurrence of unanimous votes in the Council, even when a qualified majority voting is applicable (e.g., Achen 2006: 102). However, the recorded votes represent only a fraction of the decisions taken in the Council (Hayes-Renshaw, Wallace et al. 2006). Similarly, the high proportion of legislation that gets accepted in the EU can be due to the lack of time limits at the first reading stages, which means that proposals can be taken up again after governments have changed, and the anticipation of the Commission (König and Bräuninger 2002). Hence, whether legislative decision-making in the Council is a consensual process or hard bargaining is still an open question. Thus, I use both the pivot model and the compromise model in a complementary manner to establish the counterfactual outcomes.

In sum, I will determine whether a member state won on an issue by the absolute utility gain of an actor and using two baseline models (pivot model, compromise model).

In a spatial model, influence can be measured as the move from the status quo to the final outcome relative to the ideal point of an actor. The utility of an actor is a positive function of the proximity of the outcome to the ideal point of the actor. In other words, it is in the actor's interest to move the outcome as close as possible to his ideal point. I will assume that the status quo represents both the initial policy and the point that would prevail if no other decision is taken (also known as the reference point or default position). Thus, the utility gain of an actor i in a one-dimensional space is given by

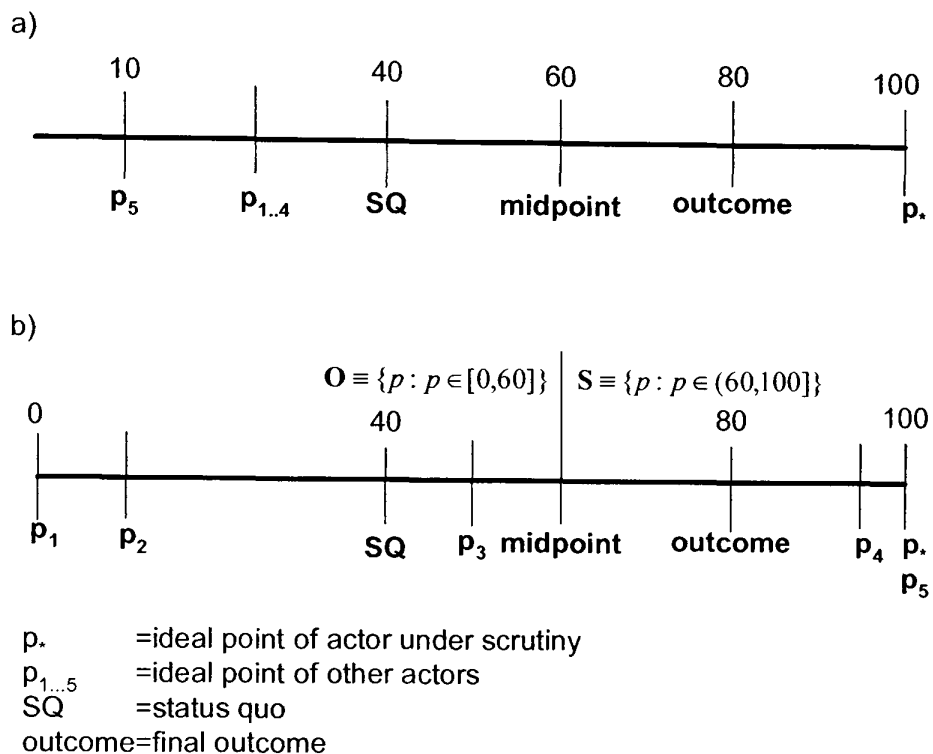
$$UG_i = |P_i - SQ| - |P_i - Outcome| \quad (1)$$

where P_i , SQ, and Outcome refer to the location of the actor's ideal point, the status quo, and the outcome respectively. A positive value implies that the policy is moving towards the ideal position of the actor, whereas a negative value denotes a move away from it.

Consider the example given in Figure 7.1. (panel a). There are six actors (P^* and P_1 through P_5) who take up positions on a line ranging from 0 to 100. Let P^* be the actor whose power we are scrutinizing. The status quo is located at 40. One actor, P^* , would like to move the policy to the right (towards its ideal point at 100), whereas all other actors would prefer a move to the left. In this case, the policy is shifted to 80. Thus, P^* wins 40 utiles. P_5 , however, loses 40 utiles. Choosing between two alternative policies, actors will opt for the one that is closer to their ideal position. Define the midpoint as the point that is equally distant from two policy alternatives, in this case the status quo and the final outcome (midpoint = $(sq + outcome) / 2$). Actors will agree to a change in policy (to the outcome) if they are on the side of the midpoint on which the policy alternative

is located. In our example (Figure 7.1., panel a) only P* would advocate a change of policies, whereas P₁ through P₅ would prefer the status quo to the outcome.

Figure 7.1.: Measuring power in spatial models



We can confidently assert that a shift in policy move is indeed caused by a given actor (e.g., P*), if all other causes can be discarded. Besides pure chance, a decision might be tilted in a particular direction due to the interests (and actions) of other actors (P₁ through P₅ in our example). If interests are diametrical opposed to each other, a movement towards an actor's ideal point measures influence as the actor's interest did prevail in the face of resistance. This is the case in the scenario depicted in Figure 7.1., panel a. It would be a mistake, however, to induce from this situation that the other actors are without any power. Their utility loss might have been even greater if it had not been for their power to keep the outcome (relatively) close to their position. We can only infer that the actor towards whose ideal point the outcome moved exercised more influence than the other actors. The more actors have diametrically opposed interests to the actor under scrutiny (relative to the number of actors involved in a decision), the

more confident we are that this actor was indeed decisive for the change of policy. This measure should also include actors who are in favour of keeping the status quo as they are opposed to any change, including a change towards the direction of the actor under scrutiny.

Once the positions of several actors are aligned (as shown in panel b of Figure 7.1.) we cannot any longer definitely identify the position of a single actor as the root of changes in policy. Indeed, the policy change might be due to just one of the actors, whereas several others, who also benefit from it, did not have any power in this matter at all. Alternatively, all of the actors who benefit might have to be credited (possibly to varying degrees) with bringing about the final outcome. The more actors benefit from a given decision, the less we can be confident that any one of them has exercised power. In the scenario depicted in Figure 7.1., panel b, three actors (P^* , P_4 , and P_5) might have exercised their power to bring about the right-ward shift in policy. Thus, the number of actors with interests similar to the actor under scrutiny can serve as a measure of our lack of confidence in asserting a causal relation between the exercise of power by a given actor and a change in policy.

When comparing the power of an actor in different scenarios, we have to take the positioning of other actors relative to the actor under scrutiny into account. This can be achieved by calculating the number of actors in support P^* 's position. Unless either p^* or any p (or both) coincide with the midpoint, the set of supporting actors (S) consists of all actors whose ideal positions are on the same side of the midpoint as p^* . If two points are on the same side of the midpoint, subtracting the midpoint from them will yield the same sign and the product of these two sums will be positive.

Hence,

$$\mathbf{S} \equiv \{p \in \mathbf{P} : \left(p - \frac{\text{SQ} + \text{Outcome}}{2}\right) * \left(p^* - \frac{\text{SQ} + \text{Outcome}}{2}\right) > 0\} \quad (2)$$

where \mathbf{P} is the set of ideal points of the actors who are involved in the decision-making process.

If p^* or p coincides with the midpoint, this test becomes indeterminate. I assume that actors choose the status quo if outcome and status quo are equally far away from their ideal points. The logic of the first definition can be used to establish whether or not both p^* and p would support the status quo. The midpoint is replaced by p^* (or p) as the reference point. Formally,

$$\mathbf{S} \equiv \{p \in \mathbf{P} : (p - p^*) * (\text{sq} - p^*) > 0\} \text{ if } p^* = \text{SQ} + \text{Outcome}/2 \quad (3)$$

$$\mathbf{S} \equiv \{p \in \mathbf{P} : (p^* - p) * (\text{sq} - p) > 0\} \text{ if } p = \text{SQ} + \text{Outcome}/2 \quad (4)$$

Finally, if both p^* and p are on the midpoint, then they share the same ideal position.

Hence,

$$\mathbf{S} \equiv \{p \in \mathbf{P} : p = p^*\} \quad (5)$$

The set of opposing actors (\mathbf{O}) can then be defined as \mathbf{S} 's complement,

$$\mathbf{O} \equiv \{p \in \mathbf{P} : p \notin \mathbf{S}\} .$$

In our example (Figure 7.1., panel b) $S = \{P_4, P_5\}$, which comprises the closed interval from 60 (inclusive) to 100 (inclusive). The set O consists of all other actors located in the half-open interval from 0 to 60 ($O = \{P_1, P_3, P_3\}$). Thus, the support ratio is $2/3$.

The logic driving this measure of support or opposition is based on actors choosing between two policies, the status quo and the outcome. Actors are defined to be supporting each other's position if they make the same choice. In situations where there is no choice the measure is not applicable. This would be the case if there is no change in policy and the status quo coincides with the outcome ($SQ = Outcome$).

In principle, a similar logic to the one pertaining to a shift in policy can be applied to these situations as well. Instead of evaluating the actors' preferences with regard to two policies, we examine their interest in seeing a change of policy. If P^* 's ideal point coincides with the status quo, which is prevailing, whereas all other actors are in favour of a change in policy, the lack of change might be due to P^* 's exercise of power. We can only confidently make this claim, however, if all other actors favour the same policy. Otherwise, P^* might simply benefit from the inability of the (powerful) actors to agree on a new policy. This argument against asserting that P^* is the reason for a lack of change in policy is particularly strong if the other actors can't even agree on the direction of the prospective shift. If P^* 's ideal point does not coincide with the status quo (and outcome), we can assert that he is at least as powerful as all other actors if they have diametrically opposed preferences and the other actors occupy the same position. Once the actors have heterogeneous preferences, however, distinguishing between the impact of single actors when none of them is experiencing a utility gain becomes a difficult proposition. In general, the analysis becomes vastly more complicated than in situations where there is a shift in policy. Furthermore, the measures pertaining to a

scenario involving no change of policy will not be directly comparable to measures involving a shift. Hence, cases with no change in policy are excluded from the empirical analysis that follows.

Alternatively to the study of absolute utility change, we can rely on baseline models to predict what the outcome would have been lest an actor had special powers. As discussed above, this allows a more direct distinction between power and luck.

7.2.1. The Pivot Model

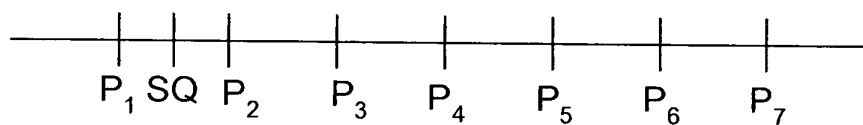
According to the pivotal politics theory (Krehbiel 1996; Krehbiel 1998; Krehbiel 2006), a decision is reached based on the distribution of preferences and the necessary voting threshold. It was originally developed to study legislative politics in the United States, but it is suitable for our present purposes because it incorporates supermajoritarian voting thresholds. The pivotal politics theory also incorporates institutional powers, most notably the veto power of the U.S. President. In a similar vein, one could include the European Commission as an actor with gate-keeping, agenda-setting or veto powers. Given the disagreement on which powers (if any) the Commission possesses (Wonka and Warntjen 2004: 14-5; Crombez, Groseclose et al. 2005: 7-10), I refrained from doing so and include a control variable for the position of the Commission in the empirical analysis instead.

If a decision is reached in a one-dimensional policy space by simple majority and all actors have the same number of votes, the outcome will be the position of the median voter (Black 1948; Black 1998 [1958]). If the decision needs to be adopted with a supermajority, as is the case in the Council of Ministers, the prediction depends on the

location of the status quo. If a change in policy is possible, the outcome will be the ideal position of the pivotal voter closest to the status quo location.

Consider a committee that has to make a decision on a unidimensional policy space (Figure 7.2.). For ease of exposition, assume that all members have one vote. Decisions are subject to a supermajoritarian threshold, the approval of 5 out of 7 members is needed to enact a new legislation.

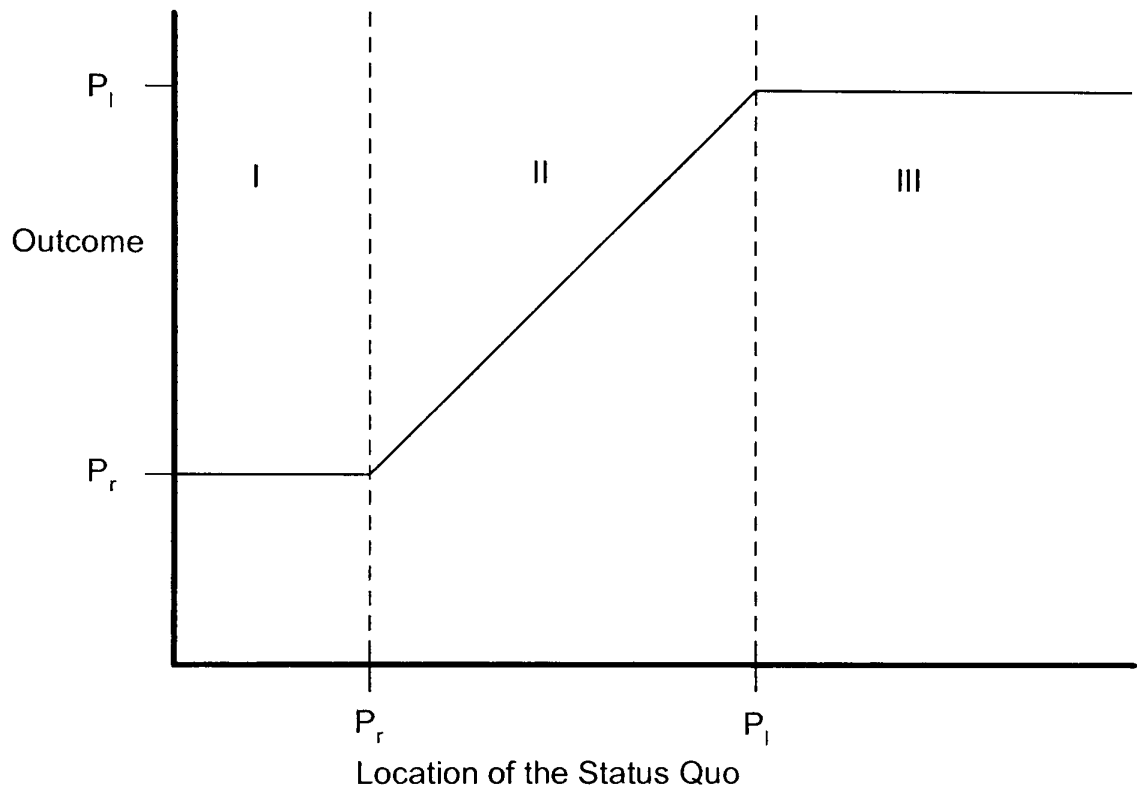
Figure 7.2: The Impact of the Pivotal Actor on Decision Outcomes



To shift policy to the right the approval of the 5th committee member from the right (i.e., P₃) is pivotal. Indeed, this will be the outcome given the location of the status quo (SQ). Any rightward move supported by the pivot would also get the support of the actor to his right (P₄ .. P₇) which together form a sufficient majority. Furthermore, the pivot benefits from a status quo bias. Because he is closer to the status quo than the other members of the coalition, he can successfully insist on his own ideal point (Napel and Widgren 2006: Proposition 1). To illustrate the logic behind this, consider the ideal point of P₄ as an alternative outcome. A sufficient majority (P₃ ... P₇) would prefer P₄ to the status quo. However, because the appreciation of the status quo varies among the members of this coalition, they have a different impact on the decision outcome. P₃ is 'less eager' than P₄ ... P₇ on replacing the status quo and can hence successfully insist on his ideal position (Napel and Widgren 2006: 136). The same logic applies to shifts to the left.

Whether a shift to the left or right is viable depends on the location of the status quo. This is illustrated by Figure 7.3. We can distinguish three scenarios. If the status quo is located to the left of the pivot for rightwards shifts P_r (I), the outcome will be the position of P_r . Conversely, if the status quo is located to the right of P_l (II), the pivot for leftward shifts, the outcome will be the ideal point of P_l . If the status quo is located

Figure 7.3.: Prediction of Decision Outcomes based on the Pivot Model



P_l =pivot, movement of the left P_r =pivot, movement of the right

between P_l and P_r (III), the status quo will prevail as there is no sufficient majority to move it in either direction.

7.2.2. The Compromise Model

The origins of the compromise model can be traced to several formal and informal theories of bargaining (Achen 2006b), in particular to the exchange models proposed by Coleman (1966, 1966, 1991). He argued that decision-making is not only determined by the distribution of the preferences (and the institutional setting), as the pivot model

would have it, but also by the intensities of these preferences. Van den Bos (1991) extended this notion to derive the compromise model, which is given by

$$outcome = \frac{\sum_{i=1}^n s_i v_i p_i}{\sum_{i=1}^n s_i v_i} \quad (6)$$

where s_i , v_i , and p_i refer to the salience, (voting) power, and position of actor i respectively. In effect, the compromise model is the mean of the positions of all actors involved in a decision weighted by their (voting) power and the intensity of their preferences. The more powerful an actor is and the more importance he attaches to a decision, the closer the outcome will be to his position according to the model. If an actor is not interested in a decision ($s_i=0$) or does not have any power ($p_i=0$), then the decision will be reached without taking his position into account. The voting power is given by the Shapley-Shubik power index³¹.

7.3. Empirical analysis

7.3.1. Research design: comparison across time and countries

The basis of most, if not all, empirical endeavours in social science is comparison. The objective is to conduct ‘quasi-experiments’. The general principle is to focus on the effect of a change of one independent variable on the dependent variable while accounting for the impact of confounding factors. Thus, ideally one factor is isolated to determine whether or not it has an impact and how it affects the phenomenon to be studied. This is a straightforward exercise if all other factors can be held constant,

³¹ I use the Shapley-Shubik power index to allow comparability to other results based on the DEU data set. Alternatively, the Banzhaf index could be used. The results from these different indices are correlated.

otherwise statistical techniques such as regression analysis can be used to control for a (limited number of) confounding effects. In order to test whether the member state holding the Council Presidency benefits from the powers of the office or if it has to make sacrifices once put into the limelight, I will use two complementary research designs.

Firstly, I will compare the likelihood that a member state wins from a Council decision during its term in office to periods in which it is an ordinary member. This will ensure that some of the factors besides being in office which might make a member state powerful, such as its voting power, are held constant. In other words, the comparison is across time leaving characteristics of the units such as their voting power the same. This design has two drawbacks. Firstly, the analysis is limited to countries for which enough cases can be categorized as being decided during their Presidency. In effect this means that it is limited to two countries, Germany and France, who are not representative of all member states (see below). Secondly, we need to clearly delineate between times for which we could expect a Presidency effect for a given country and time periods in which it is just an ordinary member states. This is less straightforward than it might seem at first. While a member state is at the helm for a clearly defined time span, legislative proceedings last usually longer than six months. Also, legislative proposals are not only debated in the Council but also by the supranational actors. I will resolve this issue in the comparison across time by focusing on the first reading stage in the consultation procedure. This practically eliminates one of the supranational actors, the European Parliament, from the proceedings. Furthermore, it offers a comparable time frame across different proceedings.

Secondly, I compare the performance of all member states on the same issue. In other words, I am comparing across member states. Whereas in the comparison across time requires delineating when a member state might benefit from a Presidency effect, this difficulty disappears in the comparison across member states. The focus is now on the proposal and how each member state performed in influencing the outcome, rather than a member state. This allows us to scrutinize the effect of holding the Presidency at various stages of the decision-making process. Furthermore, all member states can be included in the analysis.

7.3.2. Data and measurement

The empirical analysis presented in this chapter uses the data set gathered by the ‘Decision-making in the European Union’ project (Thomson, Stokman et al. 2006). The data set contains information on 66³² legislative proposals. Three criteria were used in the selection of cases:

- 1.) All proposals were subject to either consultation or co-decision and the legislative procedure did not change (when the Amsterdam treaty came into effect)
- 2.) All proposals were pending in 1999 and/or 2000
- 3.) All proposals raised some controversy

125 Experts were interviewed to gather information on the position of all legislative actors on these proposals. On average for each proposal the position for all 15 member states, the Commission, and the European Parliament were provided by 1.9 experts. In other words, most of the data on actors’ ideal positions was supplied by a proxy who could only provide an estimate based on the position taken by an actor in the

³² Some research using the DEU data set refers to 70 proposals. The reason is that the project started with 70 proposal, but for four the data gathering could not be completed because, for example, no decision was reached during the interview phase.

negotiations or his previous experience. Of course, the expert's inference might not represent the ideal point (Bueno de Mesquita 2004). Insofar as an alternative data source was available, the data has been cross-validated (König, Lindberg et al. 2007).

Due to the measurement technique used in gathering the data, distances between (ideal) points cannot be directly compared across issues. There are two reasons for this. Firstly, the end poles have arbitrarily been assigned the same values. Although they have been coded using the same numerical values, the extreme poles of the issue continua do not represent the same policies. Rather than labelling the end poles of all continua with the same numbers, different values could have been used for different issues. Subsequently, distances between policy positions cannot be compared directly across different issues. The measurement of policy positions for the Socrates directive can serve as a good illustration of this point. There were three issues, one of which referred to the level of funds while another referred to the terminology used. According to the scale imposed on the experts' judgments, a position of 0 implied on the one dimension no funding and the wording 'European Dimension of Education' on the other dimension. A position of 100 implied assigning 2.5 billion to this policy and referring to a 'European Education Area'. It would be heroic to assume that the difference between no funding and 2.5 billion Euro is equivalent to changing from the wording 'European Dimension of Education' to 'European Education Area' because both are equivalent to 100 units in the imposed policy space. Averaging policy distances across different issues is analogous to calculating the mean profit for a multinational company across different currencies without accounting for the variation in the value of currencies. Obviously, a direct comparison of the values would lead to misleading conclusions. Secondly, the range of possible values for policy distances varies across issues. The data set includes dichotomous issues. For these issues the range of values of utility change is restricted to

two due to the binary nature of the decision. In contrast, for continuous issue continua distance measures can take on a broader range of values. Thus, the values between the same distance measure might vary across issues not because the actor exercised a different amount of influence but rather because the number of feasible outcomes differs across issues. Furthermore, the range of values for utility change depends on the position of the actor. If the actor favours a position right in the middle between the two poles, his utility change has a maximum value of 50. If his position is on one of the extreme poles themselves, however, his utility change has a maximum value of 100 (Bruce Bueno de Mesquita 2004: 134). While the measurement on each issue continuum can reasonably be treated as ratio scaled to calculate counterfactuals, the analysis should proceed on the issue level to avoid treating values that are representing de facto different policy distances as equal.

7.4. Empirical Analysis: Comparison across Time

The 66 proposals covered in the dataset by the 'Decision-making in the European Union' project include 174 issues. 98 of those issues were decided by the consultation procedure. I limited myself to the consultation procedure to minimize the number of actors involved in the process. I also eliminate decisions from the analysis, as they are only binding for the addressee. This leaves 86 issues. To calculate the dependent variable, the outcome and status quo have to be known. 24 issues have missing values for either the outcome or the status quo and are excluded. Missing values for positions can be interpreted in two ways (Thomson and Stokman 2006). They are either genuinely missing, that is the member state did not participate in the discussions because they were indifferent with regard to the outcome, or they are due to measurement error, that is a member state had a position but it was not recorded. I

dropped 14 issues on which more than 2 positions of member states were missing values. Thus, 48 cases remain.

Table 7.1.: Descriptive Statistics

Presidency	N	Change		Voting Threshold		Type		New	
		Yes	No	Unanimity	QMV	Directive	Regulation	Yes	No
Finland	8	6 (75)	2 (25)	2 (25)	6 (75)	5 (63)	3 (38)	4 (50)	4 (50)
France	11	8 (73)	3 (27)	6 (55)	5 (45)	1 (9)	10 (91)	5 (45)	6 (55)
Germany	11	8 (73)	3 (27)	2 (18)	9 (82)	3 (27)	8 (73)	5 (45)	6 (55)
Portugal	7	5 (71)	2 (29)	1 (14)	6 (86)	3 (43)	4 (57)	6 (86)	1 (14)
Sweden	11	6 (55)	5 (45)	3 (27)	8 (73)	2 (18)	9 (82)	7 (64)	4 (36)
Sum	48	33 (68)	16 (33)	14 (29)	34 (71)	14 (29)	34 (71)	27 (56)	21 (44)

Percentage of total cases in each row in brackets (rounded values)

To test whether or not a member state is more powerful while being in office as the Council Presidency than when it is not, it is advantageous if there are many cases in which a member state does hold the Council Presidency. The data set contains 48 cases, France, Germany and Sweden each held the Presidency during the final parts of the negotiations in 11 of them (Table 7.1.). Finland and Portugal split the remaining 15 procedures between them. The first of the power measurements is restricted to cases in which there was a shift of policy. For the Swedish Presidency, this is only the case for 6 procedures. Therefore, France and Germany will be primarily used for the empirical analysis.

The French Presidency decided notably fewer decisions for which qualified majority is applicable and markedly more regulations than the other four Presidencies in the data set. Otherwise, the French and German Presidency seem fairly representative with regard to the shift of policy, voting threshold, the type of legislation, and new legislation. However, France and Germany are not representative of Council member states. Both belong to the group with the highest number of votes and are usually cited as countries with both above average political and economic clout and pro-integration attitudes.

7.4.1. The Case of France

France held the Presidency in 2000. Figure 7.4. presents the eleven consultation proceedings in the data set on which an agreement has been reached during the French Presidency and for which sufficient data is available. The data is presented on the issue level. For most proposals all issues are included. However, for some (1, 5, 8, 11) data on the positions of more than two member states or the Presidency, the status quo, or the outcome on related issues is missing. In case 1 a further 5 issues have been discussed. In the other cases there was one other issue related to the proposal. In three cases (1, 5, 9) not all of the positions of member states are available. In particular, the positions of Austria (9) or Ireland (1) or both (5) are missing. Most of the cases were subject to unanimity (1, 2, 3, 4, 5, and 11), the other ones were decided by qualified majority (6, 7, 8, 9, and 10). Virtually all cases exhibit divergent preferences of the member states. The notable exception is case 1 where all member states would like to keep the status quo and only the Commission is in favour of policy change. Furthermore, in all but one case (11) member states disagree on the direction of change. In three cases one member state is pitted against all others in this regard. Case 8 has all member states in favour of a policy shift with only Spain interested in keeping the status quo. In cases 2 and 3 only France favours a move to the right whereas all other member states are either in favour of the status quo or advocate a leftward shift in policy. In three out of the 11 cases (1, 3, 4) there was no change in the status quo.

We can consider the impact of France on the policy outcomes in two steps. Firstly, France might be successful in blocking a change in policy if it is in favour of the status quo. Secondly, we can investigate if France benefited from a change in policy when France's most preferred policy did not coincide with the status quo. In other words, we

can scrutinize whether or not France was able to move policy towards its own ideal position.

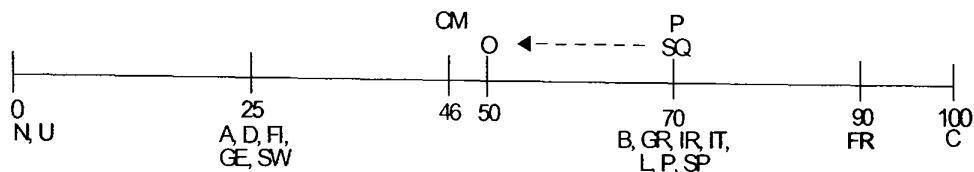
France's ideal position is identical to the status quo in five of the cases (1, 6, 7, 9, and 10). Only in one of those instances did the status quo prevail (1). This case is quite distinct from the other cases in two respects. Firstly, a decision had to be reached by unanimity. But even more importantly, there was also unanimous consent among the member states that the status quo should be kept; only the Commission was in favour of a shift in policy. In all other cases a policy shift occurred despite French opposition. This is particularly surprising in the instances when a blocking minority or even a majority of member states supported the status quo. This is indicated by the prediction of the pivot model which is identical to the status quo when there is no sufficient majority to change it. In three cases out of five (6, 9, 10) the French Presidency could have counted on the support of at least six other member states which should have allowed it to block a decision to shift policy. In case 10, France even had the support of all but three member states. France could not prevent a policy shift from happening when it favoured the status quo, even when this position was supported by a blocking minority or even a majority of member states. This clearly highlights that the French Presidency did not have the power to prevent decisions from taking place if they ran contrary to French interests. Overall, France seems weak in the cases when it favoured the status quo.

Figure 7.4.: Agreements reached during the French Presidency

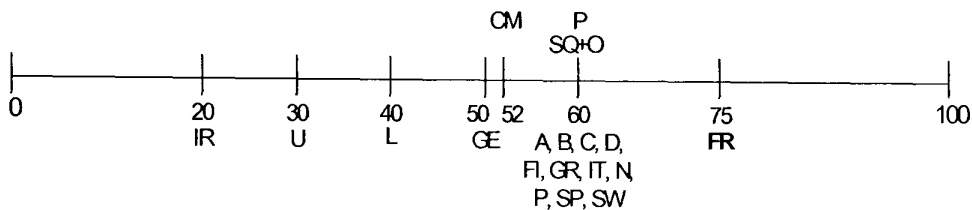
1) COM 2000/030 (ISNR: N0030i1), Unanimity



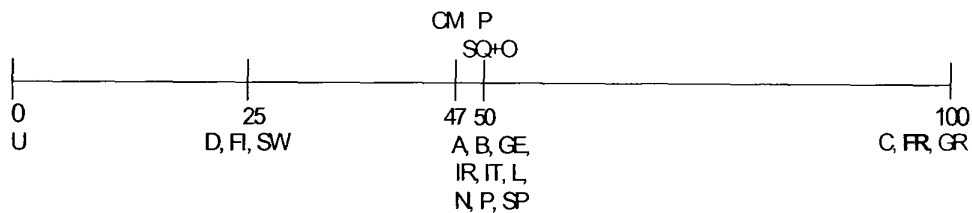
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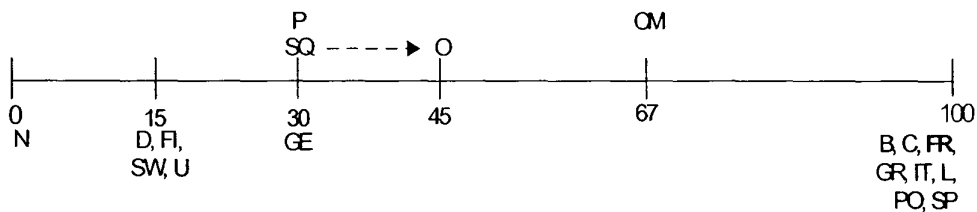
3) COM 1999/154 (ISNR: N99154i1), Unanimity



4) COM 1999/154 (ISNR: N99154i2), Unanimity



5) COM 1999/214 (ISNR: N99214i2), Unanimity



6) COM 1999/235 (ISNR: N99235i1), QMV

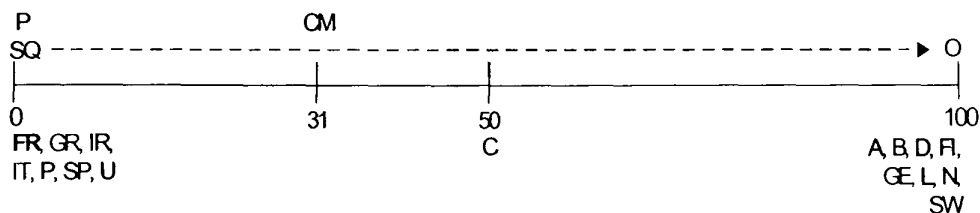
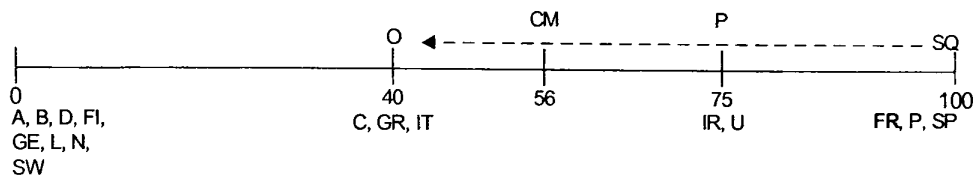
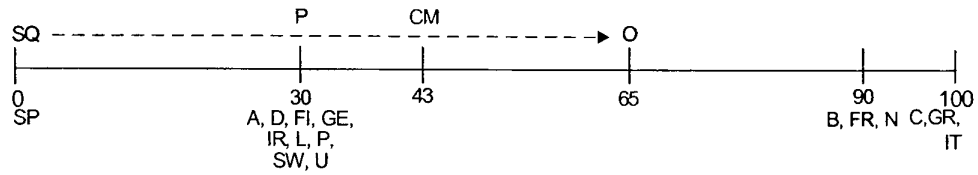


Figure 7.4. continued

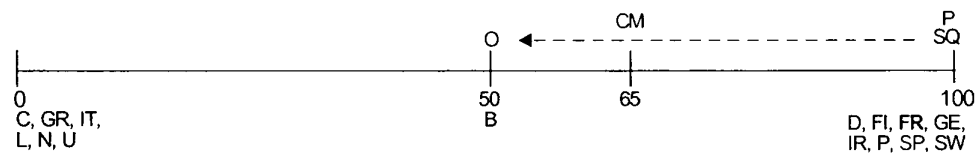
7) COM 1999/235(ISNR: N99235i2), QMV



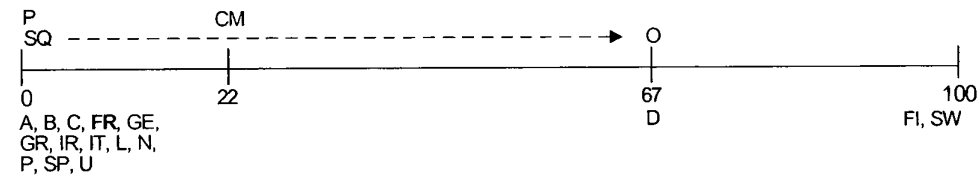
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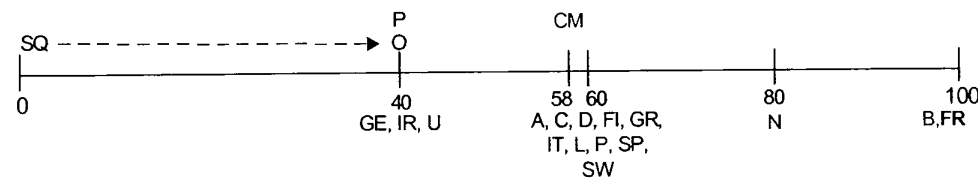
9) COM 1999/246(ISNR: N99246i1), QMV



10) COM 1999/246(ISNR: 99246i2), QMV



11) COM 1999/225(ISNR: N99225i1), Unanimity



A=Austria; B=Belgium; C=Commission; CM=Compromise model; D=Denmark; FI=Finland; FR=France; GE=Germany; GR=Greece; IR=Ireland; IT=Italy; L=Luxembourg; N= Netherlands; SQ=Status Quo; O=Outcome; P=Pivot; PO=Portugal; SP=Spain; SW=Sweden; U=United Kingdom
 NB. Rounded values for compromise model
 Source: Thomson et al. 2006, own calculation

In six cases France would have liked to see a change in policy (2, 3, 4, 5, 8, and 11). In three (5, 8, 11) out of these six cases there was a shift towards the French ideal position. However, in case 11 all member states prefer the outcome to the status quo. In case 5 six member states (and the Commission) have preferences identical to the French Presidency. In case 8 four other member states (and the Commission) benefit from a shift in policy. This makes it difficult to claim that France was decisive in bringing about the policy change in its direction.

In the remaining three cases there was either no shift in policy (3, 4) or a change away from the French position (2). All instances were decided by unanimity. Furthermore, France was either isolated (2, 3) or only supported by one other member states (4). Most member states were in favour of the status quo, while some had interests diametrically opposed to the ones of the French Presidency. Given this setup it is not surprising that the Presidency could not move the outcome towards its preferred position. What is surprising, however, is that in one case (2) the Presidency was unable to prevent a move further away from its ideal point. Seven other member states were in favour of keeping the status quo. In addition, unanimity should have given France veto power in any case even without the support of a majority of member states. This highlights again that the Presidency does not exercise a gate-keeping or veto power.

The record for France in the six cases in which France favoured a shift in policy is mixed. It clearly lost in one case in which the policy shifted away from its ideal position. In three cases the outcome was better for France than the status quo, however at least four other member states profited as well. Finally, in two cases there was no change in policy. Both cases were decided by unanimity which should give France, which was largely isolated, veto power. It is noteworthy that in case 2, which is similar

to 3 and 4 with regard to the distribution of preferences, policy shifted away from the French ideal position despite its veto power due to unanimity.

Overall, the examination of consultation cases decided during the French Presidency does not indicate that France benefited from being in office. France clearly could not prevent a shift in policy when it favoured the status quo. This is particularly striking as it often had the support of a number of other member states. Only in half of the cases in which France favoured policy change did the outcome move towards its position.

In terms of its utility change, the French Presidency benefited in three cases (5, 8, 11), lost in 5 (2, 6, 7, 9, 10), and stayed the same in the three cases in which there was no policy change (1, 3, 4). In nearly all of the cases in which France lost (except 2), it favoured the status quo and failed to prevent a policy change. A comparison to the outcomes predicted by the pivot and compromise model paint a similar picture. Compared to the pivot outcome France fared worse in five cases (2, 6, 7, 9, and 10). The actual outcome was more beneficial for France than the prediction in only two cases (5, 8). In four cases the prediction of the pivot model coincides with the actual outcome (1, 3, 4, and 11). The margin is closer but still points to a weak Presidency if the prediction of the compromise model is used. The outcome is worse for France than the expected outcome in six cases (5, 6, 7, 9, 10, and 11) and better in four (2, 3, 4, and 8). Actual and predicted outcome are the same in one case (1).

When comparing the success of France across time periods, we should consider the overall level of gridlock, how conservative France was, the level of support for the French position, and how often unanimity applied. The proposals on which agreement was reached during the French Presidency differ with regard to French conservatism,

the applicable voting rule, and the level of support for the French position to the other time periods, but not with regard to gridlock. Overall, the level of gridlock in consultation procedures was very similar for cases decided upon during the French Presidency and the procedures decided with France as an ordinary Council member. There was no change in policy in three out of the eleven procedures (27 per cent) on which an agreement was reached during the French Presidency. During the other time periods, 12 out of 37 cases (32 per cent) ended in gridlock. However, France was more conservative with regard to proposals decided upon during its term in office. While France was in favour of keeping the status quo in 45 per cent of the cases decided during its Presidency, its position was identical to the status quo only in 30 per cent of the consultation procedures decided during other periods. Furthermore, qualified majority voting was more often applicable during the periods when France was not in office. Only five out of eleven of the decisions made during the French Presidency were decided by qualified majority rule. In contrast, 29 out of the 37 (78 per cent) decisions reached during the other time periods were subject to qualified majority voting. France enjoyed a higher degree of support from other member states for its position when it was not in office. While the range for support (nil to all fourteen member states besides France), the mean value of member states having interests similar to the French position was higher when it was an ordinary Council member. The values are 9.54 and 6.64 with standard deviations of 3.81 and 4.52 respectively.

It should have been easier to reach agreement on a change in policy detrimental to the French position when it was not in office given the lower voting threshold. As discussed above, during its Presidency there was a shift in policy despite French opposition in four out of five instances (80 per cent). The statistic for the other time periods is five out of

eleven (45 per cent). Thus, France benefited more often from gridlock during the times when it was not at the helm.

In 26 (70 per cent) consultation procedures not decided during the French Presidency, France was in favour of a policy change. As described above, during its Presidency France benefited from half of the policy changes taking place. During the other time periods France welcomed 73 per cent of the shifts in policy. In 19 cases the absolute utility increased due to a policy shift, whereas it decreased only in one. In six instances France would have preferred a shift in policy but the status quo prevailed.

Thus, France benefited more often from decisions on which agreement was reached while it was an ordinary Council member and did not have the Presidency. In the cases in which France favoured a policy change, a higher percentage moved towards its ideal point when France did not have the Presidency. In the instances in which France preferred to keep the status quo, the status quo prevailed more often when a decision was not reached during the French Presidency.

The same picture emerges if we compare the utility change in absolute terms and relative to the predictions of the pivot and compromise model. Table 7.2. presents cross-tabulations for the utility change (decrease, no change, increase) across the time periods in which France did hold the Council Presidency and the ones in which it was an ordinary Council member. The utility change is evaluated relative to the status quo (absolute change), the prediction of the pivot model, and the prediction of the compromise model. The distribution across both periods is also provided. Strikingly, for all three measurements the utility of France increases more often for decision taken during periods in which it was an ordinary Council member. The absolute utility

increases in 51 per cent of the cases decided during a non-French Presidency, but only in 27 per cent of the cases during the French Presidency. Similarly, as an ordinary

Table 7.2.: Comparison of Utility Change for France across Time

	Decrease	No change	Increase	
<u>Absolute change</u>				
Ordinary Member	6 (16)	12 (32)	19 (51)	37 (100)
French Presidency	5 (45)	3 (27)	3 (27)	11 (100)
Total	11 (23)	15 (31)	22 (46)	48 (100)
	P-Value (Chi2, 2x2)	.044	P-Value (Chi2, 2x3)	0.116
	P-Value (Fisher, 2x2)	.059	P-Value (Fisher, 2x3)	0.132
<u>Relative to pivot</u>				
Ordinary Member	15 (41)	10 (27)	12 (32)	37 (100)
French Presidency	5 (45)	4 (36)	2 (18)	11 (100)
Total	20 (42)	14 (29)	14 (29)	48 (100)
	P-Value (Chi2, 2x2)	.447	P-Value (Chi2, 2x3)	.64
	P-Value (Fisher, 2x2)	.378	P-Value (Fisher, 2x3)	.753
<u>Relative to compromise solution</u>				
Ordinary Member	20 (54)	2 (5)	15 (41)	37 (100)
French Presidency	6 (55)	1 (9)	4 (36)	11 (100)
Total	26 (54)	3 (6)	19 (40)	48 (100)
	P-Value (Chi2, 2x2)	.872	P-Value (Chi2, 2x3)	.895
	P-Value (Fisher, 2x2)	.584	P-Value (Fisher, 2x3)	1

Nb. Rounded values of percentages in brackets

member France gained relative to the pivot in 32 per cent of the cases, whereas the proportion lies at 18 per cent for the French Presidency. The same difference holds true for the utility gains relative to the compromise solution, it is however less pronounced. The numbers are 41 per cent and 36 per cent respectively. All this points towards a weak French Presidency that had to make an extra-ordinary amount of concessions. One comes to the same conclusion if one considers the difference for the frequency France lost in absolute terms, the margins are, however, much smaller for the utility change relative to the pivot or compromise solution.

To test whether or not this difference in performance is statistically significant two measures of association were calculated. Chi² is a measure of association based on categorical variables, which is based on a comparison of the expected values given independence to the observed values. In this case utility change is tested across periods

in which the Presidency did hold the Presidency and periods in which it was an ordinary Council member. If the sample size is small, Fisher's exact test may be more appropriate (Agresti and Finlay 1997: 224-5). Table 7.2 gives the p-values for the χ^2 and the (one-sided) Fisher's exact test. The values for no change in utility are harder to interpret than either an increase or decrease in utility. In the context of absolute utility change it just indicates that there was no policy shift. As discussed above, this is in the interest of France if the status quo coincides with the French ideal position. For the counterfactual measurement, no change in utility implies that the prediction was perfect. The outcome and the prediction are identical, hence did neither benefit more nor less from the actual outcome when compared to the prediction. For this reason, the p-values for a 2x2 table excluding the category 'no change' have also been calculated. Only in the 2x2 table based on absolute utility change is the difference between the time periods large enough to confidently reject the null hypothesis of independence. All other tests yield p-values above conventional levels ($>.1$). Hence, while the evidence points towards a weak French Presidency that had to make extra-ordinary concessions this relationship is not statistically significant in the bivariate analysis.

Multivariate analysis allows us to test whether or not a relationship between two variables is robust when considering the impact of other factors. In our case we are particularly interested in controlling for the support of other member states for the French position. The dependent variable is binary as we are interested in whether or not France experiences a positive change in utility. Several models need to be estimated to account for the use of the different measurements (absolute utility change, relative to pivot, relative to compromise solution).

To establish unbiased estimates and confidence intervals regression analysis crucially hinges on being able to utilize a large number of cases. Some econometricians argue

that generally more than 30 observations are sufficient (Wooldridge 2000: 169), while others would maintain that a much larger sample size is necessary to make confident claims about inference. The decision involves a number of factors including the number of control variables (e.g., Agresti and Finlay 1997: 135-41). There are 48 observations for the present analysis, but only 24 can be used for the absolute utility change model when the level of member state support is included as a control variable. As explained above, this variable is not comparable across cases in which there is and in which there is no change in policy. Furthermore, if France favours the status quo it can only lose. In the best case there is no change in the utility of France, but it cannot experience an increase in utility. Hence, these cases need to be excluded in the analysis of the absolute utility model. Otherwise our results would be biased as every time France favour keeping the status quo it would lose qua definition. In contrast, we do not need to impose the same restrictions on the pivot and compromise models. The preference configuration of the other member states is already accounted for, hence there is no need to control for the level of member state support for the French position. This implies that we can consider cases of gridlock and policy change simultaneously. Furthermore, if the French position coincides with the prediction of the bargaining models it failed to use its extra powers to move the outcome further towards its ideal position. One issue in this regard is the nature of the predictions as point estimates. Due to measurement errors and additional influential factors not included in the bargaining model the counterfactual outcome cannot be perfectly predicted. However, there is no reason to suspect that this is systematically biased vis-à-vis the French position.

The multivariate analysis includes several control variables, namely the support of the other member states, the support of the Commission, and the voting threshold. As outlined above, for the model based on absolute utility gains the number of Council

members who are in support of the member state's position, whose power is being studied, needs to be included.

Table 7.3.: Logistic Regression for Comparison across Time for France
Dependent Variable=Utility change (absolute or relative to pivot/compromise model)

Model	1	2	3	4	5	6	7	8
Measurement	Absolute Utility		Pivot Model			Compromise Model		
N	24	24	48	48	46	48	48	46
Pseudo R2	.11	.11	.015	.065	.064	.001	.048	.052
Constant	3.778 (2.354)	4.217 (3.388)	-.733** (.351)	.225 (.665)	.237 (.786)	-.383 (.335)	.559 (.652)	.324 (.755)
French Presidency	-1.988 (1.605)	-2.21 (2.031)	-.77 (.857)	-1.277 (.951)	-1.31 (.946)	-.177 (.711)	-.620 (.794)	-.706 (.797)
Number of supporting MS	-.086 (.206)	-.102 (.223)	-	-	-	-	-	-
QMV		-.367 (1.984)		-1.268* (.754)	-1.187 (.757)		-1.215* (.71)	-1.106 (.716)
Support Commission					-.0001 (.678)			.429 (.633)

Nb. Standard errors in parenthesis. * p<.1, ** p<.05, *** p<.01

Table 7.3. presents the finding of logistic regressions on the absolute utility change and relative to the counterfactual prediction for France. The meaning of the dependent variable differs across the various models summarized in Table 7.3. Models 1 and 2 refer to the absolute utility change. The dependent variable is coded as 1 if policy moves towards the French position, otherwise it is coded as 0. The other models have a departure from the counterfactual as dependent variable. Models 3, 4, and 5 are based on the pivot model. The dependent variable is coded as 1 if the outcome is closer to the French position than the pivot model predicts. In models 6, 7, and 8 the dependent variable is coded 1 if the outcome is closer to the French position than the prediction of the compromise model. The first two models always include a control variable for the *number of member states* who support the French position. This is necessary to distinguish between power and luck as discussed above. The counterfactuals already include the positions of all member states, hence it is not necessary to include them as a control variable. The main independent variable distinguishes between times in which the Presidency was held by France (=1) and in which it was not (*French Presidency*).

As explained above, this refers to the point in time in which political agreement was reached in first reading in the Council. Some of the models (2, 4, 5, 7, and 8) also include a control variable for the voting threshold. It is a dummy variable (*QMV*) which is coded 1 if the decision could be made by qualified majority voting. Finally, models 5 and 8 include a control variable for the support of the Commission. The Council does not decide alone in legislative matters. The final legislative outcome will be influenced by the Commission and in the case of co-decision the European Parliament. Furthermore, the position of member states close to the positions of the supranational actors (assuming that they occupy a similar position) might carry more weight in the discussions in the Council than would be the case if the Council could pass laws on its own. As I will only use legislation decided under the consultation procedure, I will only control for the position of the Commission (*support Commission*). The dummy variable is coded 1 if the Commission prefers the French position to the status quo as explained above. The support of the Commission is captured in a separate control variable as its (potential) influence differs from that of the other member states in the Council.

The coefficients for a French Presidency are all negative, implying that France loses more during its term in office than as an ordinary Council member. However, the coefficient is not statistically significant at the 10 per cent (or a lower) level. The only statistically significant effect relates to the voting threshold (models 4 and 7). However, it is not a robust effect. The full models (2, 5, and 8) do not yield any statistically significant effect. This is in line with the earlier findings from the cross tabulation. France seems to make more concessions on dossiers for which it held the Presidency during the first reading agreement, but the effect is not statistically significant. Thus, the 95 per cent-confidence interval of the coefficient includes positive and negative values. Hence, the analysis is ultimately inconclusive.

7.4.2. The Case of Germany

Germany held the Presidency in the second half of 1999. Figure 7.5. shows the eleven consultation proceedings for which an agreement was reached during the German Presidency. In all but two cases the positions of all member states are recorded. In case 1 the position of Luxembourg is missing and in case 8 the positions of both Luxembourg and Austria are missing. In three cases other issues have been discussed which are not included in the analysis because of missing data. Case 1 represents one out of 6 issues related to that particular dossier, while in cases 2 and 5 there was one and two other related issues respectively that are not included in the analysis. Unlike the French Presidency, most cases decided during the German Presidency were subject to qualified majority voting (1, 2, 3, 4, 5, 8, 9, 10, and 11). Only two cases (6, 7) were decided by unanimity.

In most cases member state preferences diverge substantially. However, in cases 7 and 9 all member states occupy the same position. In case 2 all member states agree on the need for change and its direction. In cases 5 and 6 the preferences of all but one member state (France and Luxembourg respectively) coincide. Unlike France, Germany is never isolated in its position. Despite the more frequent possibility of qualified majority voting, the number of cases in which there is no change is identical under the French and German Presidency. In three cases (7, 10, 11) there was no policy shift.

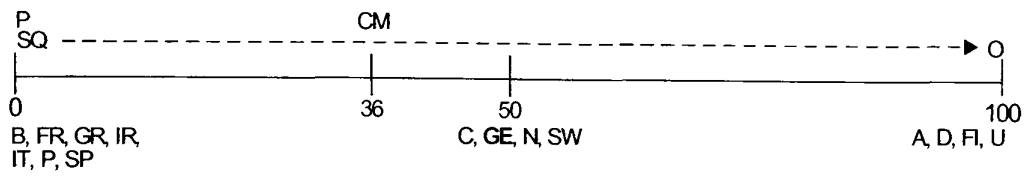
Following the same strategy as before, we can first consider if Germany benefits from gridlock before we scrutinize if Germany benefits from policy changes. Germany was in favour of the status quo in four cases (3, 4, 5, and 7). In only one of those (7) did the status quo prevail. As this decision was made by unanimity with all member states in

favour of keeping the status quo, we cannot reasonably credit the German Presidency for this outcome. In all other instances a sufficient blocking minority consisting of six (3, 4) and thirteen (5) member states supported the German position. This shows that the German Presidency did not enjoy special powers to prevent a decision from being taken that would be detrimental to its interests.

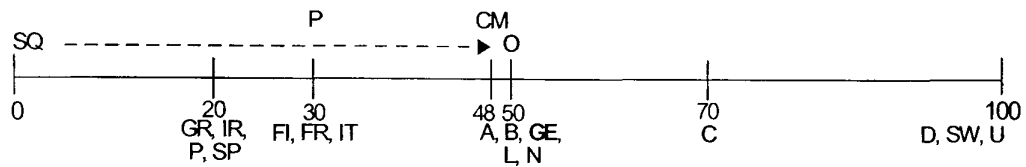
In seven cases Germany favoured a shift in policy (1, 2, 6, 8, 9, 10, and 11). In case 1 the outcome was equally distant from the German position as the status quo. In four cases (2, 6, 8, 9), the outcome was closer to the German position than the status quo. In one of those cases (2), the outcome was even identical to the German position. In two cases (10, 11), there was no change in policy. Given the preference configuration it cannot definitively be established that Germany brought about a policy change in its favour. In those cases in which it benefited from a policy change, a number of other member states shared the German position. Indeed, in three (6, 8, 9) out of four cases an overwhelming number of member states supported the German position. In case 9 all member states were in support of the German position. In case 6 only Luxembourg differed in its opinion from Germany. In case 8 this is true for Italy and Greece, while the other ten member states whose position is recorded were in favour of the German position. Thus, while Germany fared well in those cases in which it was in favour of a policy shift, we cannot possibly credit it with these positive changes.

Figure 7.5.: Agreements reached during the German Presidency

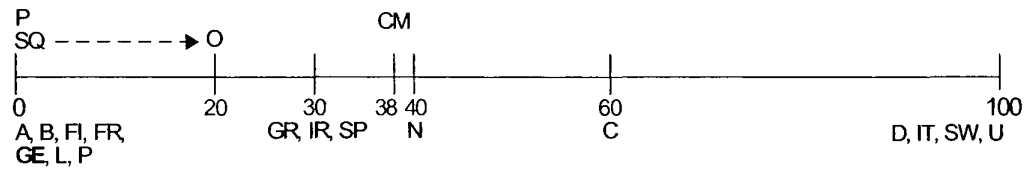
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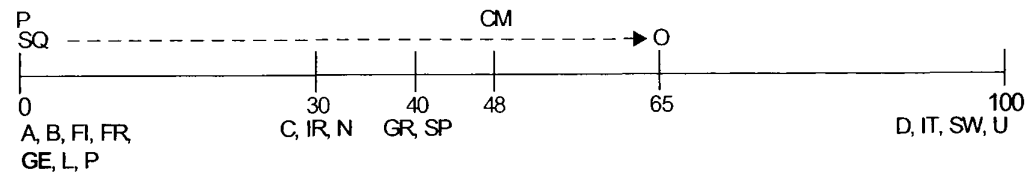
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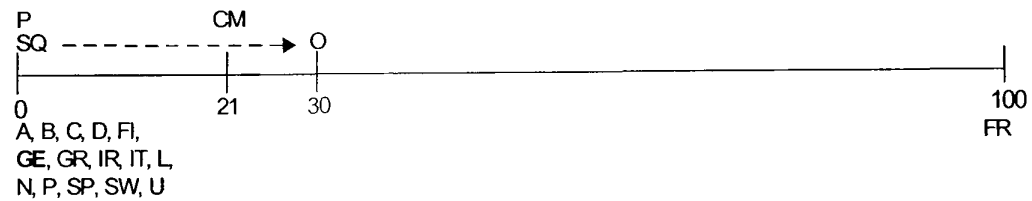
3) COM 1998/110 (ISNR: N98110i1), QMV



4) COM 1998/110 (ISNR: N98110i2), QMV



5) COM 1998/288 (ISNR: N98288i2), QMV



6) COM 1998/331 (ISNR: N98331i1), Unanimity

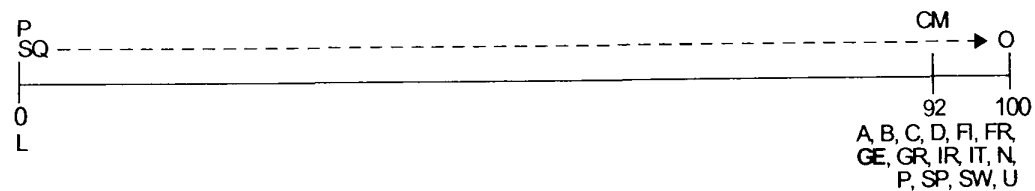
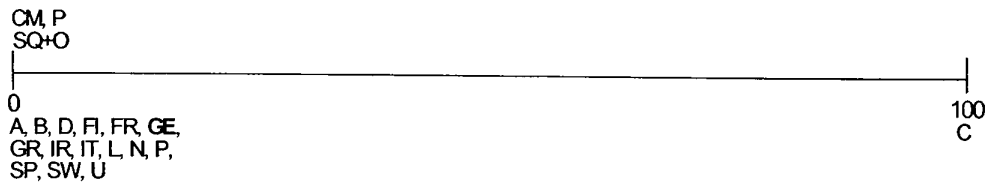
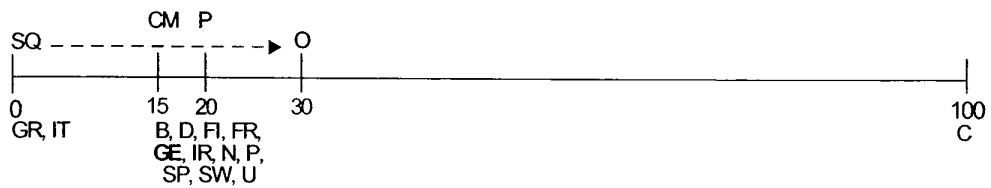


Figure 7.5. continued

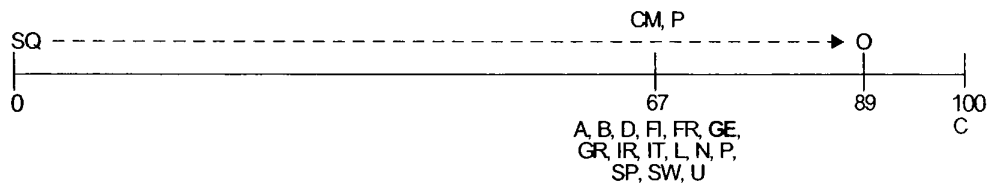
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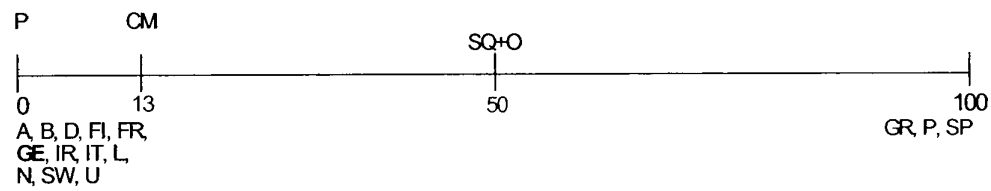
8) COM 1999/050 (ISNR: N99050i1), QMV



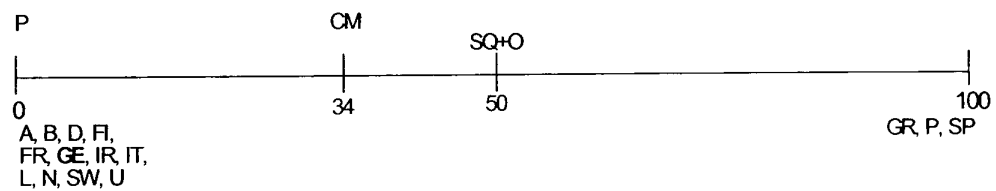
9) COM 1999/072 (ISNR: N99072i1), QMV



10) COM 1999/072 (ISNR: N99072i2), QMV



11) COM 1999/072 (ISNR: N99072i3), QMV



A=Austria; B=Belgium; C=Commission; CM=Compromise model; D=Denmark; FI=Finland; FR=France; GE=Germany; GR=Greece; IR=Ireland; IT=Italy; L=Luxembourg; N= Netherlands; SQ=Status Quo; O=Outcome; P=Pivot; PO=Portugal; SP=Spain; SW=Sweden; U=United Kingdom
NB. Rounded values for compromise model
Source: Thomson et al. 2006, own calculation

As in the French case, the German Presidency could not prevent a policy shift when it favoured the status quo. Most policy shifts that occurred when Germany was not in favour of keeping the status quo were beneficial for Germany. However, there is not sufficient evidence to claim that Germany brought about these changes.

In terms of absolute utility gain, Germany won in four cases (2, 6, 8, and 9) and lost in three (3, 4, and 5). In three of the remaining four cases (7, 10, 11) there was no change in policy and subsequently no change in utility. In one case (1) the outcome was equally distant from the German position as the status quo. The comparison of the actual outcome to the compromise and pivot model yields a different picture. The comparison to the model predictions clearly shows Germany losing more often than winning. Germany fared better than the compromise model prediction in three (2, 3, 6) and better than the pivot model in two (2, 6) cases, but loses relative to both predictions in seven cases.

Leaving aside the cases in which there is no policy change, the evaluation in terms of absolute utility change and relative to the model predictions diverge with regard to three cases (3, 8, and 9). In cases 8 and 9 the absolute utility change is positive, whereas the outcome is not as close to the German position as the model predictions. Given that all (9) or nearly all (8) member states had preferences identical to the German one, the models predict the outcome to coincide or to be very close to the German position. The actual outcome, however, lies further away. In both instances this is probably caused by the influence of a supranational actor. The outcome in case 9 is the preferred policy of the European Parliament. In case 8, the outcome deviates from the ideal point of all member states towards the ideal position of the Commission. These examples highlight the necessity to control for the support of supranational actors in the multivariate

analysis. In case 4 Germany loses in absolute terms and relative to the pivot model prediction, but wins relative to the compromise model prediction. This is due to the circumstance that Germany along with a blocking minority favours the status quo, whereas a number of other member states would value a shift in policy. In the event, Germany and the other conservative member states could not prevent a policy change which is, however, not as far-reaching as a compromise would suggest.

Table 7.4. gives the cross-tabulation for the utility change (decrease, no change, increase) for Germany across its time in office and as an ordinary Council member. In terms of absolute change the distributions are very similar. The percentage of times in which Germany benefits from a decision relative to the predictions of the pivot model is also nearly the same across both time periods. Germany, however, loses more (and experience less often no change) during its term in office when first reading agreements were struck than during other time periods. The measures of association do not give sufficient ground to reject the null hypothesis of independence.

Table 7.4.: Comparison of Utility Change for Germany across Time

	Decrease	No Change	Increase	
<u>Absolute Change</u>				
Ordinary Member	13 (35)	13 (35)	11 (30)	37 (100)
German Presidency	3 (27)	4 (36)	4 (36)	11 (100)
All	16 (33)	17 (35)	15 (31)	48 (100)
	P-Value (Chi2, 2x2)	0.677	P-Value (Chi2, 2x3)	0.869
	P-Value (Fisher, 2x2)	0.72	P-Value (Fisher, 2x3)	0.913
<u>Relative to Pivot</u>				
Ordinary Member	17 (46)	13 (35)	7 (19)	37 (100)
German Presidency	7 (64)	2 (18)	2 (18)	11 (100)
All	24 (50)	15 (31)	9 (19)	48 (100)
	P-Value (Chi2, 2x2)	0.956	P-Value (Chi2, 2x3)	0.369
	P-Value (Fisher, 2x2)	1	P-Value (Fisher, 2x3)	0.322
<u>Relative to Compromise</u>				
Ordinary Member	16 (43)	2 (5)	19 (51)	37 (100)
German Presidency	7 (64)	1 (9)	3 (27)	11 (100)
All	23 (48)	3 (6)	22 (46)	48 (100)
	P-Value (Chi2, 2x2)	0.159	P-Value (Chi2, 2x3)	0.519
	P-Value (Fisher, 2x2)	0.144	P-Value (Fisher, 2x3)	0.602

Nb. Percentages in brackets are rounded values

Hence, this finding should not be overstated. The differences are more pronounced when using the compromise model as a counterfactual. Germany wins less and loses more often during its term in office. The difference across time periods, however, is again not statistically significant. In sum, both counterfactual analysis point towards a weak Germany Presidency. But the bivariate analysis does not yield statistically significant results and is thus ultimately inconclusive.

Table 7.5.: Logistic Regression for Comparison across Time for Germany
Dependent Variable=Utility change (absolute or relative to pivot/compromise model)

Model	1	2	3	4	5	6	7	8
Measurement	Absolute Utility		Pivot Model			Compromise Model		
N	22	22	48	48	46	48	46	46
Pseudo R2	.25	.37	<.001	.075	.11	.031	.085	.095
Constant	-3.61* (1.99)	-3.77* (2.15)	-1.46*** (.42)	-.617 (.575)	-1.356 (.84)	.054 (.329)	-.679 (.5)	-.316 (.677)
German Presidency	-.021 (1.379)	-1.253 (1.72)	-.0488 (.887)	.203 (.935)	.223 (.966)	.054 (.328)	-1.135 (.834)	-1.074 (.834)
Number of supporting MS	.469** (.223)	.363 (.242)						
QMV				-1.45* (.783)	-1.48* (.814)			-.545 (.696)
Support Commission		2.491* (1.472)			1.193 (.911)		1.36** (.665)	1.373** (.668)

Nb. Standard errors in parenthesis. * p<.1, ** p<.05, *** p<.01

The regression analysis also does not display a statistically significant finding for the Council Presidency (Table 7.5). The coding is identical to the one used for France (see pp. 220-2). The 95 per cent confidence interval of the coefficient for holding office throughout includes positive and negative values. Thus, we cannot distinguish between a positive or negative effect of holding office. More importantly, we cannot positively attribute any effect on the utility change of Germany to the office of Council Presidency.

In sum, the comparison across times for France and Germany do not yield conclusive evidence of a Presidency effect on decision outcomes. Some caveats must be noted. The analysis is restricted not only to two countries but also to a Presidency effect during first

reading agreements. Thus, the number of cases is relatively small. A more comprehensive analysis is provided by the comparison across countries.

7.5. Empirical Analysis: Comparison across Countries

The preceding analysis has ultimately been inconclusive. This could be due to the number of observations, the selection of cases (France, Germany), or the restrictions due to the operationalisation. In order to compare periods in which France or Germany held the Presidency to other time periods, we need to be able to clearly delineate these. As discussed above, it seems reasonable to use the time during which agreements have been reached in first reading in the consultation procedure for this purpose. This, however, also imposes limits on what is being scrutinized. There might be an effect of the Presidency at earlier or later stages of the decision process. Furthermore, the Presidency might be more successful at pulling decisions in its direction in the codecision procedure when it is acting as a main liaison for the Parliament rather than being constrained by the preferences of an additional actor. As before, we can consider the absolute, or actual, utility change an actor experiences or the performance relative to a counterfactual outcome derived from a model prediction. After describing the reshaped data set, the next section will present the analysis based on the absolute utility change followed by the counterfactual analysis.

The alternative research design presented in this section compares the performance of the member state at the helm to ordinary member states with regard to the same decision (Table 7.6.). In other words, the comparison is across countries and not time periods. To be more precise, the unit of analysis is now at the level of the position of a country on an issue. Thus, there are (up to) 15 observations for each issue. Most of the member

states will not have been involved as the Presidency in the legislative proceedings. However, some will have chaired meetings at the introduction, discussions during the first reading, or during the final stages of decision-making. We can compare how these member states fare to the success of member states who have not been involved as the Presidency during the discussions. In addition, we can compare the performance of a member state across issues in which it had a leadership function and others in which it was only involved as an ordinary Council member. Thus, the preceding analysis is included in this research design.

	<u>Consultation</u>	<u>Codecision</u>	<u>Missing</u>	<u>Total</u>
Legislative Procedure	703 (51)	678 (49)	0	1,381 (100)
Voting threshold	<u>QMV</u> 1,014 (73)	<u>Unanimity</u> 367 (27)	<u>Missing</u> 0	<u>Total</u> 1,381 (100)
Legal form	<u>Directive</u> 647 (47)	<u>Regulation</u> 734 (53)	<u>Missing</u> 0	<u>Total</u> 1,381 (100)
Type of proposal	<u>New</u> 877 (64)	<u>Amending</u> 504 (37)	<u>Missing</u> 0	<u>Total</u> 1,381 (100)
Support by Commission	<u>Yes</u> 841 (61)	<u>No</u> 510 (37)	<u>Missing</u> 30 (2)	<u>Total</u> 1,381 (100)
Parliament	680 (49)	395 (29)	306 (22)	1,381 (100)

Nb. Percentages in brackets

Table 7.6 describes the data with a country position forming the unit of analysis. 94 issues are used in this data analysis. For each issue there are 15 member state positions. Because of missing data for individual country positions, there are 1,381 observations in the newly formatted data set. The position for Belgium, France, Germany, Italy, Portugal, Spain, and the UK is represented in the data set for all 94 issues. For most of the other countries, their position on an issue is missing in one (Denmark, Netherlands, Sweden) or two cases (Finland, Greece). The position of Luxembourg, Austria, and Ireland is missing in ten, nine, and three cases respectively.

The data has been collected for proposals pending in 1999 and 2000. Two countries did not hold the Presidency at any stage of the decision-making process for the proposals under scrutiny, Denmark and Greece. All other member states have been involved as the Presidency in the decision-making at some stage (Table 7.7.). On average, member states have not been involved in decision-making as the Presidency on 69.8 per cent of the issues for which their position is recorded. We can distinguish the involvement of a member state as the Council Presidency during the introduction of a proposal by the Commission, when political agreement was reached in the Council during the first reading, during the final stages of the legislative process, and during other time periods in between. To code involvement during the final stages the date of the signature was used. Hence, a member state is coded as being involved when a bill was signed into law by the Council (or Council and Parliament in case of codecision) during its time in office. Other time periods refer to the times in which an issue was pending, but in which it was neither introduced, decided upon in first reading, or adopted. In the 31.2 per cent of observations in which a member state was involved as the Presidency, it was mainly while the proposal was just pending (43.7 per cent). A member state was nearly as often

Table 7.7.: Involvement of Member States as Council Presidency

	No involvement	Member State held Presidency during				Total
		Introduction	Agreement, First Reading	Final Act	Other Time Periods	
Austria	47 (55.29)	14 (16.47)	1 (1.18)	0	23 (27.06)	85 (100)
Belgium	78 (82.98)	0	0	13 (13.83)	3 (3.19)	94 (100)
Denmark	93 (100)	0	0	0	0	93 (100)
Finland	27 (29.35)	26 (28.26)	7 (7.61)	11 (11.96)	21 (22.83)	92 (100)
France	33 (35.11)	7 (7.45)	7 (7.45)	20 (21.28)	27 (28.72)	94 (100)
Germany	43 (45.74)	6 (6.38)	5 (5.32)	11 (11.70)	29 (30.85)	94 (100)
Greece	92 (100)	0	0	0	0	92 (100)
Ireland	79 (86.81)	0	0	0	12 (13.19)	91 (100)
Italy	82 (87.23)	12 (12.77)	0	0	0	94 (100)
Luxembourg	69 (82.14)	4 (4.76)	0	0	11 (13.1)	84 (100)
Netherlands	81 (87.1)	0	0	0	12 (12.9)	93 (100)
Portugal	30 (31.91)	9 (9.57)	24 (25.53)	10 (10.64)	21 (22.34)	94 (100)
Spain	91 (96.81)	0	0	3 (3.19)	0	94 (100)
Sweden	52 (55.91)	0	8 (8.6)	25 (26.88)	8 (8.6)	93 (100)
UK	67 (71.28)	11 (11.70)	1 (1.06)	0	15 (15.96)	94 (100)
Total	964 (69.80)	89 (6.44)	53 (3.84)	93 (6.73)	182 (13.18)	1,381 (100)

Nb. Percentages in brackets

involved during its term in office when a bill was introduced (21.3 per cent) as during the final stages (22.3 per cent). In 12.7 per cent of the cases a member state held the Presidency when a political agreement was reached in the first reading. There is some overlap between these categories. In 5 cases a member state held the Presidency during the introduction, first reading agreement and signature of a bill. In 39 instances (42.4 per cent) in which a member state held the Presidency during the final stages of decision-making, it also held the Presidency when a political agreement was reached in first reading. There is some variation for the stage in which a member state was involved as the Presidency. Italy has only been at the helm during the beginning of the discussions on some proposals, while the Netherlands only presided over the final stages.

Decisions subject to the codecision and consultation procedure are about equally represented in the data, similarly directives and regulations. 64 per cent of the observations involve a new proposal that is not amending existing legislation. Member states were more often supported by supranational actors than not. The position of the European Parliament is missing in 22 per cent of the cases; hence the multivariate analysis including a control variable for the support of the Parliament will be restricted to 1,075 observations. If we exclude these cases, Parliament supports the position of a member state 63 per cent of the time. The same is true for the Commission.

7.5.1. Absolute Utility Change

The analysis based on absolute utility change is complicated by two factors as discussed earlier. Firstly, the control variable for the level of support by other member states is not comparable for cases in which the status quo prevails and cases in which there is a

policy shift. Secondly, when the member state is in favour of keeping the status quo, it can only lose or experience no utility change.

Table 7.8.: Absolute Utility Change and Involvement as Council Presidency

a) Cases where the member state does not favour the status quo

Involvement as Presidency	Utility Change			Total
	Loss	No Change	Gain	
No Involvement	66 (9.7)	123 (18.1)	489 (72.1)	678 (100)
Introduction	5 (7.6)	8 (12.1)	53 (80.3)	66 (100)
First Reading	5 (12.2)	7 (17.1)	29 (70.7)	41 (100)
Final Act	1 (1.5)	12 (17.9)	54 (80.6)	67 (100)
Other	34 (27)	16 (12.7)	76 (60.3)	126 (100)
Total	111 (11.4)	166 (17)	701 (71.7)	978 (100)

B) Cases where the member state does favour the status quo

Involvement as Presidency	Utility Change		Total
	Loss	No Change	
No Involvement	169 (59.1)	117 (40.9)	286 (100)
Introduction	12 (52.2)	11 (47.8)	23 (100)
First Reading	7 (58.3)	5 (41.7)	12 (100)
Final Act	16 (61.5)	10 (38.5)	26 (100)
Other	39 (69.6)	17 (30.4)	56 (100)
Total	243 (60.3)	160 (39.7)	403 (100)

Nb. Numbers in brackets are row percentages (rounded values). **Bold** print indicates proportions that are higher than the marginal distribution.

Table 7.8. presents a cross-tabulation of member state involvement and absolute utility change. Panel a) gives the results for the 978 cases (78 per cent) in which member states favoured a shift in policy, panel B includes the results for the 309 cases (22 per cent) in which they favoured the status quo. The involvement of member states as the Presidency is similar for both groups. In most cases a member state did not chair meetings for a proposal at any stage. This was true in 69 per cent of the cases where member states supported a policy shift and 73 per cent of the cases where member states favoured gridlock. If a member state held the Presidency between the introduction and final act of a proposal, it was usually not during the introduction, the first reading agreement, or during the final stages. Member states were involved during these other time periods in 14 per cent and 10 per cent of the cases respectively. In about 6 per cent of the cases (for both groups) a member state held the Presidency during the

introduction or final act, and in about 4 per cent of the cases (again, for both groups) this was true for the time period when political agreement was reached in the first reading.

The cross-tabulation does not give an indication of the Presidency being powerful in general. Member states that are not involved as the Presidency gain slightly more often than expected if the variables were unrelated when favouring a policy shift. The same is true for member states that support the status quo and are not involved as the Presidency. In the cases where a policy shift is supported, member states holding the Presidency during the introduction and final act are noticeably more successful than expected. Indeed, they win in 80 per cent of the cases, whereas this is only true in 72 per cent of the cases for ordinary member states. Member states holding the Presidency during the first reading agreement are slightly more likely to lose. Finally, member states at the helm during the other periods of the legislative proceedings lost more often than the overall distribution would suggest. Thus, member states whose ideal position differs from the status quo seem to benefit from holding the Presidency at the beginning or end of legislative proceedings.

A similarly mixed picture emerges for the cases in which member states favour the status quo. In these cases a member state can only lose by a shift in policy or experience no change in utility due to gridlock. Overall, member states lost utility in about 60 per cent of the cases. In the other 40 per cent there was no change in policy, possibly because a member state prevented a policy change that would run counter to its interests. This number is slightly higher for member states with no involvement in the legislative proceedings as the chairman in the Council (41 per cent) and for member states which held the Presidency when agreement was reached in first reading (42 per

cent). It is notably higher (48 per cent) for member states which held the Presidency during the introduction of a bill. The success rate for a member state at the helm at the end of legislative proceedings is slightly lower than expected (39 per cent). Finally, member states holding the Presidency during other time periods of the legislative proceedings have a significantly lower success rate (30 per cent) than is the case overall. For both groups of member states (in favour or opposed to the status quo) the cross tabulation suggests that holding the Presidency at the beginning of legislative negotiations is beneficial. The success rate for this group is both higher than the overall distribution across all cases and higher than the success rate for member states who are not involved at all. However, the findings for other involvements as the Presidency differ across the two groups. A Chi²-test for the member states in favour of policy change strongly suggests that absolute utility change and holding office are related ($p < .001$), whereas the null hypothesis of independence cannot be rejected for member states in favour of the status quo ($p = .58$).

All of these findings should be taken with a large pinch of salt, however, as several other factors besides holding office are related with the success of a member state. The number of other member states who support the position of a given member state, the support of the European Parliament, and the support of the European Commission are all correlated with absolute utility change in the cases where member states support a shift in policy. This correlation is strongly statistically significant ($p < .001$). Kendall's Tau-c (which ranges from -1 to 1) gives a moderate positive relationship for the number of supportive Council members (.27), whereas the support of the European Parliament (.34) and in particular of the Commission (.54) are strongly associated with success. Voting power, however, is not correlated at conventional levels of statistical significance ($p = .37$).

Table 7.9.: Logistic Regression on Absolute Utility Change

Dependent Variable							
1=Increase of absolute utility							
0=No increase of absolute utility							
Model	(1)	(2)	(3)	(4)	(5)	(6)	(7)
Constant	1.899*** (.375)	-.570 (.463)	-1.471** (.719)	-1.456 (.893)	-1.9*** (.729)	-15.109 (1.360)	-16.807 (11.369)
<i>Member State held Presidency during</i>							
Introduction	.133 (.471)	.479 (.535)	-.041 (.706)	-.254 (.663)	-.107 (.677)	-.230 (.638)	-.105 (.672)
First reading	-1.019* (.520)	-.785 (.493)	-1.627* (.842)	-1.347 (.950)	-1.601* (.933)	-1.201 (1.006)	-.956 (.927)
Final act	1.602** (.729)	1.787** (.809)	1.087 (.982)	.723 (1.034)	.944 (.983)	.650 (1.060)	.473 (1.021)
Other time periods	-1.19*** (.301)	-.888*** (.293)	-.814* (.453)	-.972** (.460)	-.933** (.462)	-.877* (.508)	-.849 (.525)
<i>Support for Member State Position by</i>							
Other Member States		.280*** (.029)	.155*** (.041)	.128*** (.040)	.133*** (.039)	.103** (.047)	.078 (.052)
Commission			3.554*** (.370)	3.660*** (.378)	3.667*** (.384)	3.769*** (.359)	3.978*** (.383)
Parliament			1.715*** (.315)	1.857*** (.340)	1.833*** (.351)	1.964*** (.379)	2.138*** (.410)
<i>Other</i>							
Voting Power				-.727 (.448)		13.982 (1.571)	16.514 (11.691)
Saliency				.003 (.007)		.003 (.007)	.012* (.007)
Consultation					.040 (.362)	-.119 (.397)	-.577 (.424)
QMV					.690* (.416)	13.471 (9.874)	15.843 (1.904)
Directive						-.455 (.632)	-.682 (.632)
New							-1.34*** (.448)
N	829	829	673	654	673	654	654
Pseudo R ²	.06	.19	.51	.51	.51	.52	.54

Nb. Robust standard errors in parenthesis. All models include fixed effects for member states; ***= p<.01, **= p<.05, *= p<.1;

In the multivariate analysis (Table 7.9) we can control for these factors. However, given the issues discussed above for absolute utility change as a dependent variables cases in which a member states favours the status quo and in which there is no policy change have been excluded (N=829). Seven models have been estimated including a range of control variables. Model 1 is a baseline model which just includes dummy variables for the effect of holding the Presidency during the introduction of a bill, when political agreement was reached during first reading, during the final act, and for other time periods of legislative proceedings not covered by the previous variables. Model 2 includes a control variable for the level of *support* of member states. The value ranges

from 0 to 14 with a mean value of 9.82 for the 829 observations included in model 2. Due to missing data on the position of the European Commission and European Parliament, the number of observations drops to 673 (654) in the other models, all of which include all three control variables for the support of other political actors. Model 4 includes control variables for the *voting power* (Shapley-Shubik value) of a member state and the *saliency* which it attributes to an issue. A score of 100 indicates that an issue is of highest importance to an actor. For the 654 observations for which data is available for the support of the supranational actors and saliency, the values for saliency range from 5 to 100 with a mean of 62.65. Different policies cannot only be evaluated with regard to their closeness to one's ideal position but also by the importance attached to them. Two actors might have diametrically opposed positions on a given question, but if they both think that the decision is of no importance whatsoever this would hardly matter. Saliency is used in bargaining models in different ways (Bueno de Mesquita 2004: 131-2). It can either be interpreted as the proportion of resources an actor is willing to spend on a given question. If a lot is at stake, players would fight to the hilt in trying to get a favourable outcome. If an issue is only of low saliency to an actor, this would not be the case. We can think of this as the decision of whether or not a player would use its powers (cf. Harsanyi 1962: 73-4). A player with agenda-setting power might not make use of it if doing so is costly and the issue at hand is of no importance to him. Alternatively, saliency can be thought of as intensity of preferences. Deviations from a player's ideal point would be felt more sharply by him if he attaches a high level of significance to the issue at hand. Furthermore, a player would be willing to make concessions on a policy of low saliency if he can gain concessions with regard to a highly valued decision. Model 5 controls for the legislative procedure (*consultation* or *codecision*) and the voting threshold in the Council (*qualified majority* or *unanimity*). These controls are dummy variables coded as 1 if the proposal was decided by

consultation or qualified majority respectively. Model 6 includes all of these control variables plus a dummy variable for the proposal being for a *directive* (instead of a regulation). Finally, model 7 includes a dummy variable for the proposal being *new* rather than amending existing legislation.

The results show that the effect of holding the Presidency is either inconclusive and/or not statistically significant for the most part. Contrary to the evidence of the bivariate analysis, the logistic regression models do not attribute a beneficial effect to holding the Presidency during the introduction of a bill. The coefficient is not statistically significant at conventional levels. The negative coefficient for being chair during the first reading agreement is statistically significant at the 10 per cent-level in models 1, 3, and 5. Holding the Presidency during the final act yields a positive and statistically significant coefficient (5 per cent-level) in the baseline model (1) and when controlling for the level of support of other member states (model 2). However, once the support of the supranational actors is included, the coefficient loses statistical significance and the sign of the coefficients becomes indeterminate. The effect of holding the Presidency at some stage during the legislative proceedings (*other time periods*) is statistically significant in all but one model (7). Interestingly, the coefficient has a negative sign. However, once voting power, salience, the type of procedure, the voting threshold, and the type of proposal are included in the model, the sign becomes indeterminate at conventional levels of statistical significance (models 6 and 7). The control variables for the level of member state support and for the support of the Commission and European Parliament (with one exception) always yield a highly significant result of a positive relationship. The exception is the coefficient for the support of other member states in the complete model (7). This highlights the importance of controlling for the support of other political actors.

In sum, the multivariate analysis gives some indication of a negative effect on absolute utility gain for holding the Presidency at some stage during the negotiations other than the introduction, first reading agreement, and final act. However, this result is not robust. The coefficient is not statistically significant at conventional levels once all control variables are included in the model.

7.5.2. Counterfactual Analysis

As discussed above, the counterfactual analysis allows us to analyze whether or not an actor is powerful in a more sophisticated manner than the study of absolute utility change. Using a counterfactual as a yardstick for comparison allows us to incorporate the crucial distinction between power and luck directly into the analysis.

Cross tabulations for the involvement of a member state and its success relative to the pivot model prediction show that a member state stands to gain from holding the Presidency at some stages of legislative decision-making (Table 7.10 and 7.11). Besides the distributions for all observations, cross tabulations for cases in which a member state is not supported by the Commission and for cases in which a member state is neither supported by the Commission nor the Parliament are given. In all instances a country which does not hold the Presidency during any stage of the legislative proceedings loses more often than it does overall compared to the pivot model prediction. The difference, however, is very small. Ordinary member states are on the losing side .8 per cent more often than expected given the overall distribution for all member states (N=1,381). For the cases in which a member state does not have the support of the Commission (N=510), the difference is only .3 per cent. Finally, when a member state does not enjoy the support of both supranational actors (N=218), the

Table 7.10.: Success rate relative to the Predictions of the Pivot Model

Involvement as Presidency	Member state		
	Loses	Wins	Total
<u>All cases</u>			
No involvement	688 (71.4)	276 (28.6)	964
Introduction	51 (57.3)	38 (42.7)	89
First reading agreement	40 (75.5)	13 (24.5)	53
Final act	56 (60.2)	37 (39.8)	93
Other	126 (69.2)	56 (30.8)	182
Total	961 (69.6)	420 (30.4)	1,381
<u>No support by the Commission for the position of the member state</u>			
No involvement	300 (81.5)	68 (18.5)	368
Introduction	23 (71.9)	9 (28.1)	32
First reading agreement	15 (88.2)	2 (11.8)	17
Final act	20 (87)	3 (13)	23
Other	56 (80)	14 (20)	70
Total	414 (81.2)	96 (18.8)	510
<u>Neither Commission nor Parliament support the position of the member state</u>			
No involvement	147 (90.2)	16 (9.8)	163
Introduction	11 (84.6)	2 (15.4)	13
First reading agreement	6 (100)	0 (0)	6
Final act	11 (92)	1 (8)	12
Other	15 (62.5)	9 (37.5)	24
Total	190 (87.2)	28 (12.8)	218

Nb. **Bold** print indicates proportions that are higher than the column marginals.

difference is 3 per cent. For all three groups, holding the Presidency during the introduction of a bill is beneficial. The difference to the overall success rate is 12.3 per cent for all cases and 9.3 per cent for the cases without Commission support. The effect is less pronounced for the cases without support by Commission and Parliament, the difference here is only 2.6 per cent. Member states holding the Presidency during the final act also win 9.4 per cent more often than expected if we consider all cases. However, they also lose 5.8 per cent more often when not having Commission support and 4.8 per cent more often without support from the supranational actors. Member states also benefit from having the Presidency during legislative proceedings at time periods other than the introduction, first reading agreement, or final act. However, the difference is minimal except for the cases in which a member state has no support from supranational actors (24.7 per cent).

Table 7.11.: Success rate relative to the Predictions of the Compromise Model

Involvement as Presidency	Member state		
	Loses	Wins	Total
<u>All Cases</u>			
No involvement	563 (58.4%)	401 (41.6%)	964
Introduction	43 (48.31%)	46 (51.69%)	89
First reading agreement	29 (54.72%)	24 (45.28%)	53
Final act	45 (48.39%)	48 (51.61%)	93
Other	107 (58.79%)	75 (41.21%)	182
Total	787 (56.99%)	594 (43.01%)	1,381
<u>No support by the Commission for the position of the member state</u>			
No involvement	256 (69.57%)	112 (30.43%)	368
Introduction	19 (59.38%)	13 (40.63%)	32
First reading agreement	12 (70.59%)	5 (29.41%)	17
Final act	12 (52.17%)	11 (47.83)	23
Other	36 (51.43%)	34 (48.57%)	70
Total	335 (65.69%)	175 (34.31%)	510
<u>Neither Commission nor Parliament support the position of the member state</u>			
No involvement	129 (79.1%)	34 (20.9%)	163
Introduction	8 (61.5%)	5 (38.5%)	13
First reading agreement	4 (66.7%)	2 (33.3%)	6
Final act	7 (58.3%)	5 (41.7%)	12
Other	11 (45.8%)	13 (54.2%)	24
Total	159 (72.9%)	59 (27.1%)	218

Nb. **Bold** print indicates proportions that are higher than the column marginals.

If we compare the performance of a member state based on the compromise model prediction, it tends to lose more often on issues in which it has not been involved as the Presidency. Table 7.11. presents cross tabulations for member state involvement and utility increase relative to the compromise solution. Again, an ordinary member states tends to be a little more likely to lose (or experience no change of) utility. A member state loses in general in 57 per cent of all cases. If it is not involved as the Presidency, it loses in 58.4 per cent. The difference is more pronounced when we are considering the 510 cases in which a member state does not enjoy the support of the Commission. Overall, member states lose in 66 per cent of all instances. For member states that had not been at the helm the proportion is four percentage points higher and lies at 70 per cent. Similarly, in the 218 cases in which a member state does not have the support of the supranational actors they lose in 73 per cent of the time. The proportion for member state that had not been in office during the legislative proceedings is 79 per cent. In

contrast, member states that are involved at the beginning or the end of the legislative proceedings always fare better than we would expect based on the compromise model predictions. If we are considering all observations, holding the Council Presidency during the final stages leads to a success rate that is 8.6 per cent higher than the success rate across all cases. This difference is even more pronounced if we only consider the cases in which either the Commission (13.5 per cent) or both supranational actors (14.6 per cent) do not support a member state. About the same difference (8.7 per cent) can be observed for member states holding the Presidency during the introduction of an issue; however this value declines when we focus on cases without Commission (6.3 per cent). In contrast, it is higher in cases without any supranational support (11.4 per cent). Having the Presidency during the first reading agreement only seems to be beneficial when we consider all cases (8.6 per cent) or cases without supranational support (6.2 per cent). Member states holding the Presidency while a proposal is pending (other time periods) only gains for cases without Commission (14.3 per cent) and supranational support (27.1 per cent).

Thus, the bivariate analysis suggests that member states benefit from being in office at the beginning or the end of legislative proceedings. Furthermore, it highlights the importance of controlling for the position of the supranational actors.

While most of the multivariate analysis follows straightforward from the previous research design, some adaptations to the multivariate analysis have to be made in the case of the counterfactual analysis based on a comparison across country positions. Firstly, the observations are now the performance (win or lose) of a member state with several observations pertaining to the same decision. Note that the outcome of the dependent variable of a given observation is not completely determined by the outcomes of the

other observations related to that decision. In principle, all member states could win (or lose) by a shift in policy. Nevertheless, these observations are not completely independent of each other. To take this into account, robust standard errors have been used. Secondly, we are now comparing the performance of several member states with each other (and also the performance of a member states across issues). Their success will not only depend on whether or not they are in office but also on factors such as their voting power, political clout, and bargaining skills. Some member states will be generally more successful than other regardless of whether or not they held the Presidency during the decision-making process. Note that the measurement based on counterfactuals already includes the voting power of a member state (and in the case of the compromise solution salience). To account for other characteristics of a member state, control variables (fixed effects) for all member states are included in all of the calculations.

Table 7.12 presents the results of the logistic regression. The dependent variable is coded 1 if the utility of a member state increased relative to the prediction of the bargaining model. The regressions models 1 through 5 are estimated for the prediction of the pivot model, the remaining estimates are based on the compromise model. In a first step (models 1 and 6) only variables for the Presidency have been included. The coding is the same as discussed earlier (pp. 236-8), distinguishing whether a member state was at the helm during the *introduction* of a proposal, when political agreement was reached in the Council in *first reading*, during the signing of the *final act*, or during *other time periods* in which the proposal was pending. In a second step (models 2 and 7), control variables for the support of supranational actors were added. These dummy variables are coded as 1 if the member state has the support of the European *Commission* or *European Parliament* respectively. The other regression models include

Table 7.12.: Logistic Regression Analysis based on Counterfactual Models

Dependent Variable										
1=Increase of utility relative to model prediction										
0=No increase of utility relative to model prediction										
Model	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)
Prediction	Pivot Model					Compromise Model				
Pseudo R ²	.01	.06	.09	.11	.13	.01	.06	.06	.06	.06
Const.	-1.853*** (.238)	-1.575*** (.31)	-1.052*** (.328)	-2.146*** (.4)	-2.939*** (.49)	-.285 (.222)	-.883 (.277)	-.738 (.304)	-1.01 (.356)	-.57 (.401)
<i>Member State held Presidency during</i>										
Introduction	.571** (.238)	.398 (.278)	.44 (.29)	.291 (.29)	.306 (.296)	.148 (.23)	.154 (.277)	.161 (.278)	.148 (.278)	.185 (.279)
First reading	-.369 (.286)	-.522 (.331)	-.496 (.349)	-.54 (.347)	-.536 (.368)	-.13 (.257)	-.193 (.305)	-.182 (.307)	-.193 (.306)	-.195 (.308)
Final act	.671*** (.257)	.858*** (.301)	.906*** (.312)	.895*** (.319)	.963*** (.326)	.453* (.242)	.696** (.299)	.703** (.301)	.701** (.304)	.682** (.308)
Other time periods	.156 (.189)	.191 (.255)	.314 (.274)	.132 (.266)	.019 (.268)	-.068 (.179)	-.131 (.241)	-.098 (.251)	-.147 (.249)	-.089 (.253)
<i>Support for Member State Position by</i>										
Commission		.937*** (.162)	.99*** (.166)	.999*** (.167)	1.04*** (.168)		1.014*** (.141)	1.024*** (.144)	1.019*** (.146)	.933*** (.148)
Parliament		.477*** (.156)	.492*** (.159)	.514*** (.163)	.561*** (.168)		.104 (.139)	.102 (.140)	.103 (.141)	.065 (.142)
<i>Other</i>										
Consultation			.187 (.145)	.634*** (.173)	.697*** (.177)			.053 (.133)	.161 (.153)	.071 (.156)
QMV			-.938*** (.157)	-.615*** (.170)	-.504*** (.180)			-.245* (.141)	-.144 (.156)	-.307* (.162)
Directive				.799*** (.176)	.861*** (.182)				.229 (.156)	.117 (.161)
New				.426*** (.164)	.199 (.171)				.078 (.141)	.131 (.149)
Saliency					.014*** (.004)					-.005 (.003)
N	1381	1075	1075	1075	1041	1381	1075	1075	1075	1041

Nb. Robust standard errors in parenthesis. All models include fixed effects for member states. ***= p<0.01. **= p<0.05. *= p<0.1

additional control variables for the legislative procedure, voting threshold in the Council, type of proposal and for whether or not a proposal is a new. *Consultation* is coded as 1 if the proposal is subject to the consultation procedure and 0 if it is subject to codecision. A proposal can be decided upon in the Council either by *QMV* (=1) or unanimity. The proposals in the data set are either *directives* (=1) or regulations. Furthermore, some proposals present *new* legislation (=1) or amend existing laws. *Saliency* captures the importance of an issue on a scale from 0 to 100. A score of 100 indicates that an issue is of highest importance to an actor. A score of 50 denotes a situation in which, according to the expert interviewed, an actor would use arguments but not power to change the outcome. In the data set the values for *saliency* range from 5 to 100. The mean lies at 60 (standard deviation=22), and 59 per cent of observations have a value higher than 50.

In all of the estimations based on the pivot model predictions (models 1 through 5), holding the Presidency during the final stages of negotiations yields a positive effect that is statistically significant at the 1 per cent-level. The same is true for the support of the supranational actors; the coefficient for Commission support is also higher than the one for the Presidency during the final act. Controlling for all the other factors, a member state is more likely to win under consultation, on directives and when discussing a proposal that is important to the member state. All of these variables are statistically significant at the 1 per cent level. The variable *new* is not statistically significant once *saliency* is included in the estimation. Holding the Presidency during the final act of legislative decision-making is also beneficial according to the estimations based on the compromise model (models 6 through 10). The coefficient is positive and statistically significant at the 5 per cent level (model 6: 10 per cent level). In line with earlier studies on the impact of the Commission on legislative outcomes the

only other variable that consistently yields statistically significant estimates is the support of the Commission. The coefficient is positive and has a p-value below .01. As in the models based on the pivot model, the support of the Commission has a stronger effect on winning relative to the predictions of the bargaining model than holding the Presidency.³³

To appreciate the substantive effect of holding office during the final stages of negotiations we can calculate the probability of success based on the regression estimates (Table 7.13.). Based on model 5, the probability of an ordinary member state without Commission support benefiting more from a decision than predicted by the pivot model is 14.5 per cent. The calculations are based on mean values for all control variables and no (additional) involvement as Presidency during the introduction, first reading agreement, or other time periods. This value increases by 16.3 per cent if a member state holds the Council Presidency during the final act. In comparison, having the support of the Commission increases the success rate by 17.9 per cent. Similarly,

Table 7. 13: Predicted probabilities for the Effect of holding Office (in per cent)

		Presidency during final act		
		No	Yes	Difference
Pivot Model (Model 5)				
Commission Support	No	14.5	30.8	16.3
	Yes	32.4	55.7	13.3
	Difference	17.9	24.9	
Compromise Model (Model 10)				
		Presidency during final act		
		No	Yes	Difference
Commission Support	No	28.2	43.7	15.5
	Yes	49.9	66.3	16.4
	Difference	21.7	32.6	

Nb. Rounded values for estimates. Calculations based on mean values for all variables and no other involvement as Presidency

³³ I also calculated models including the interaction terms of various control variables (support of Commission, support of Parliament, QMV, salience, new, directive) with the dummy variable for holding the Presidency during the final stages of negotiations. The interaction terms were added to the specification of models 5 and 10. None of the interaction terms were statistically significant at the 10 per cent-level.

calculations based on the compromise model (model 10) estimate an increase of 15.5 per cent due to holding office. The difference to the increase due to Commission support (21.7 per cent) is more pronounced in this case.

Overall, the multivariate analysis based on the counterfactual research strategy yields strong evidence for an effect of the Presidency on decision outcomes. However, this is limited to member states holding the Presidency during the final stages of negotiations. The substantial effect is significant and is more or less equivalent to having the support of the Commission.

7.6. Conclusion

The rotating Presidency is a notable feature of the EU Council of Minister. It has been argued that the powers of the Presidency allow a member state to exercise an extraordinary amount of influence during its term in office. However, it has also been noted that the visibility of the Presidency might force the member state holding it to make more sacrifices than usual to reach agreement. Existing studies mainly point to individual examples to support their argument. Only recently have more systematic and comprehensive studies been carried out. This chapter provided an in-depth and comprehensive analysis of the best available data set on Council decision-making to scrutinize empirically the powers of the Presidency. Two complementary research designs, comparison across time and comparison across countries, have been used.

The comparison across time is based on 48 issues which have been decided in the period from 1 January to 30 June 2001, with a focus on the performance of France and Germany. It is confined to decisions made under the consultation procedure. Three

measures are developed to calculate whether or not a country wins on an issue. Firstly, the absolute utility gain was estimated. In this case, the multivariate analysis controls for the number of Council members in support of the member state's position. Secondly, the outcome was compared to a counterfactual result based on the pivot model. Thirdly, the compromise model was utilized as a baseline. The logistic regression analysis included the support of the Commission and the voting threshold. The analysis for both France and Germany shows no conclusive evidence for a Presidency effect. The initial analysis points to the possibility that a member states has to yield more than usual during its term of office. However, none of these results were robust and/or statistically significant. Several caveats have to be noted, however. The analysis was restricted to the consultation procedure and, for the most part, only to two member states. Interestingly, we cannot note a clear difference between the relationship between holding office and winning in these two cases, although both are large member states and belong to the original six member states. Furthermore, there is one effect of power that would not have been noted by this study – the power to prevent any decision at all. Finally, the analysis was limited to a Presidency effect on first reading agreements.

The comparison across countries offers a more comprehensive analysis. We can distinguish between the effect of holding office at various stages of the decision-making process. The same complementary measurement strategies for establishing influence as for the comparison across time have been used. Thus, the absolute utility change and the utility change relative to the pivot and compromise model were used. The analysis of both absolute utility change and based on counterfactual models yields evidence of a Presidency effect. The analysis of the counterfactual models is preferable as it offers a direct way of distinguishing between power and luck. The multivariate analysis based

on the counterfactual models strongly indicates that holding the Presidency at the final stage of legislative proceedings has a positive, statistically significant, and notable effect. The effect is statistically significant and robust across a range of specifications including several control variables. The regression analysis includes control variables for the legislative procedure, the voting threshold, the type of proposal, whether or not a proposal was new or amending legislation, and salience. The increase in the probability of an outcome closer than expected due to holding the Presidency is similar to the one due to having the support of the Commission. Thus, the analysis confirms Hypothesis 2. However, one qualification has to be made. Only presiding over the final stages of negotiations leads to disproportionate benefits. Whether the Presidency effect is due to the procedural or informational asymmetry is hard to distinguish. The fact that it is limited to Presidencies at the last stage of negotiations points towards the impact of procedural prerogatives. Presumably, the informational asymmetry diminishes with the length of negotiations.

Chapter Eight

Conclusion. Steering the Union

The reform of the Council has been, again and again, subject of heated discussions in the European Union. As the crucial needle's eye through which all EU legislation must pass, the institutional setting in the Council affects legislation and thus ultimately the lives of millions of European citizens. A key feature of the Council is the rotating Council Presidency which was a prominent topic at the recent discussions on a constitutional treaty. To understand both how the Union works and why the Council Presidency has been frequently debated, we need to understand the effects the Presidency has on EU legislation. That the Presidency has an impact has often been conjectured by practitioners and scholars of the legislative process; however the limits of the powers of the Presidency have also been often noted. Furthermore, the exact causal mechanism and nature of the effect have often not been elaborated upon. Finally, existing empirical studies have been mainly limited to illustrative examples.

The Council Presidency can potentially have two related but analytically distinct effects on EU legislation. Firstly, the Council Presidency should affect legislative activity. Guided by its own national priorities, the Council Presidency uses its central positions to devote resources to particular dossiers thus influencing which proposals reach agreement during its term in office. Secondly, the Council Presidency should affect decision outcomes. Due to its prerogative of making proposals and an informational asymmetry the Council Presidency benefits disproportionately from the outcomes of Council decisions. Indeed, as this study shows, the Council Presidency has an effect on

both legislative activity and decision outcomes. The Presidency is steering legislative decision-making in the Council according to its own interests.

This finding fills a crucial gap in the existing accounts of the legislative process. These have mainly been concerned with the inter-institutional aspects. Insofar as it has studied legislative decision-making inside the Council the focus was on the theoretical properties of the voting system. This thesis presents a comprehensive theoretical account of the effect of the Council Presidency on EU legislation. Unlike previous work it is firmly grounded in rational choice institutionalism, which has established itself as the leading approach to study the legislative decision-making process. Furthermore, this study details the link between the powers of the Presidency and its consequences. Studying the causal mechanism explicitly and in detail allows us to appreciate under which conditions a certain relationship should be observed. Subsequently, these confounding factors can be included in the empirical analysis. This thesis also advances our empirical knowledge. Rather than relying on illustrative examples, it builds on an original data set covering 35 Council Presidencies to show that the Presidency does influence legislative activity. An extensive secondary analysis of a data set covering several policy fields demonstrates the Presidency's effect on decision outcomes. Furthermore, the empirical analysis is grounded in a case study and 32 interviews with practitioners and observers of the legislative process. Most of my interview partners were working at senior level in the national representations in Brussels and thus had unique insights into the workings of the Council Presidency. One of my interview partners was from Luxembourg, the country which had just held the Presidency at the time of the interview.

The literature on the Council Presidency has been largely ambivalent. The potential of the Presidency to influence has often been noted; however the exact mechanism linking the powers of the Presidency and its consequences have rarely been spelled out in more detail. Indeed, it is often not clear what the alleged impact of the Presidency consists of precisely. Analytically, we can distinguish between an effect on legislative activity (i.e., whether or not agreement is reached on legislative dossiers) and decision outcomes (i.e., the content of this agreement). With regard to legislative activity, the Council Presidency can focus the attention of the Council on the resolution of a dossier it deems particularly important due to its own national priorities. Within the negotiations, the Presidency can put pressure on recalcitrant governments and devise compromise proposals to overcome gridlock. Compromise proposals can include exemptions, special provisions, or transitional periods to gain acceptance by key member states. By devoting more resources to some dossier rather than others, the Presidency can affect legislative activity. However, its powers are limited by its short term in office, the need to satisfy high voting thresholds, and the ongoing legislative agenda. Thus, the Presidency might not have any effect on legislative activity after all. Existing empirical studies on this subject are severely limited as they often only repeat the priorities of the Presidency, as set out in its own statements, and do not follow up on whether or not any legislation was consequently adopted. Furthermore, they only comprise a few illustrative examples. With regard to decision outcomes, all theoretically possible positions have been put forward in the literature. Some scholars argue that the procedural privileges and informational asymmetry enjoyed by the Presidency allow it to manipulate decisions in the light of its interests. Bilateral ‘confessionals’, the support of the General-Secretariat of the Council, and the central role of the Presidency allow it to gather crucial information about possible concessions by member states in the negotiations. Its relais function vis-à-vis the supranational actors add to this

informational asymmetry in favour of the Presidency. In procedural terms, several scholars argue that the member state holding the Presidency enjoys agenda-setting power in the sense of formal theorists, which would give it a major bargaining advantage. This reasoning leads to the conclusion that the Presidency has a strong influence on decision outcomes. However, the limits of the Presidency are also pointed out in the literature. To adopt legislation the approval of a large number of actors is necessary. Others might be able to sound out their bargaining partners and as negotiations drag out the informational asymmetry in favour of the Presidency might disappear. In addition, the Presidency's short term in office means that member states might simply wait for the next Presidency with preferences closer aligned to their own. Thus, the attempts of the Presidency to influence decision outcomes may come to naught. Finally, some scholars even argue that the Presidency has to make extraordinary concessions during its term in office. Rather than benefiting from its special powers, it is burdened by being in the lime-light. The argument is that member states treasure the reputation of having been a productive Presidency or are pressured to reach agreement on certain dossiers, which might force them to make sacrifices on their national positions. Only very recently have comprehensive empirical studies been conducted to give empirical leverage on this theoretically widely disputed question. These studies show that the member state holding the Presidency during the last stages of negotiations does indeed benefit disproportionately from decision outcomes. The models include a counterfactual research design using one bargaining model to derive the outcome safe of any Presidency effect. However, they are impaired by their measurement strategy. I confirm these results using a more appropriate measurement and use two bargaining models to represent both consensual decision-making and hard bargaining in the Council.

The practitioners in Brussels I interviewed presented a mixed picture of the Presidency, similar to the existing scholarly literature. Its overall effect was deemed ‘marginal’ by the interviewees who offered an assessment. The need to get approval by a number of actors and the inherited agenda limit the imprint of individual Presidencies. However, my interviewees – again in line with the existing literature – also described the central position of the Council Presidency in legislative decision-making. The Presidency is the ‘master of ceremonies’ in the Council. It can prioritize dossiers and focus resources on them, particularly at the working group level. Usually, there were enough proposals in the pipe-line to allow the Presidency to pick and choose according to its national priorities. Furthermore, the Presidency drafts compromise proposals and leads the discussion on legislative dossiers. My interview partners also confirmed that the Presidency benefits from an informational asymmetry. Member states have bilateral meetings with their Presidency in which they explain their position in more detail, giving the Presidency an informational advantage. This informational asymmetry persists, although diminished, throughout the negotiations. The central position of the Presidency in legislative deliberations was also confirmed by an official from the European Parliament. Two Commission officials described the Presidency as the central point of liaison for the Commission. Indeed, the Commission anticipated changes in the Presidency in their policy initiatives and is in contact with the incoming Presidency months if not years in advance of their term in office. Thus, both the existing literature and practitioners describe the potential of the Presidency to influence EU legislation while pointing out the limits of the Presidency’s powers.

In collective decision-making, political actors face the ‘negotiator’s dilemma’ of having to create and distribute welfare at the same time. By coordinating their behaviour and making mutually beneficial deals, all bargaining partners stand to benefit from a

political agreement. However, the surplus generated can potentially be distributed in several ways, giving rise to disagreement on the exact contents of the deal even when all bargaining partners would like to change existing policy. Establishing a leadership office can ameliorate these problems and ensure that mutually beneficial agreements are more likely to be reached. Leadership can provide a conduit of information and offer compromise proposals as a focal point of otherwise potentially indeterminate negotiations. However, granting special powers to a bargaining partner (rather than a neutral person) raises the spectre of the abuse of power. Thus, it is in the interest to create a leadership office but to limit its powers. This is exactly what the Council members did in creating the Council Presidency. It enjoys prerogatives, rather than far-reaching formal powers such as agenda-setting. It is 'in the midst of things' as one of my interview partners described it, rather than dominating the Council from the top. Its powers rely on the tacit approval of Council members rather than being enshrined in treaty law enforced by a court. A system of equal rotation and short terms in office prevent any member state from building up power that could bypass the wishes of the majority of member states and widely shares the influence that the Presidency inevitably does have.

The procedural prerogatives of the Presidency are better modelled as proposal power rather than the stronger agenda-setting power which assumes a monopoly on making proposals. While proposals of the Presidency do enjoy priority, it cannot prevent other member from putting forward alternatives. Furthermore, the Presidency does not hold additional flanking powers which would give it leverage to prevent any challenge to its proposals. A comparison to the leadership office of the Speaker of the House is very illuminating in this respect. Nevertheless, as I explain in detail in my theory chapter, drawing upon general bargaining theory, the Presidency's privileges and an

informational asymmetry in its favour could lead to biased results. Under qualified majority, proposal power gives a notable first-mover advantage to the Presidency. While a weaker power than agenda-setting, proposal power implies disproportionate benefits for the Presidency in Council negotiations. In addition and compounding the effect of its procedural powers, an informational asymmetry in the Council would work in favour of the Presidency as the holder of superior information. Besides the effect on decision outcomes, the Presidency can also be expected to affect legislative activity in the Council. The Presidency can use its central position to devote more resources to the resolution of dossiers according to its domestic priorities. As I have explained in detail in my theory chapter, the Presidency could make agreements possible, for example by exploring the concerns of key member states and adding provisions to its compromise text to address these.

My empirical chapters provide evidence for an effect of the Presidency on both legislative activity and decision outcomes. The case study on regulation in the field of occupational health and safety illustrated how a Council Presidency can affect EU legislation. The directive on risks arising from physical agents was gridlocked in the Council for several years until the German Presidency unlocked negotiations by splitting the directive. It also successfully pushed for political agreement on legislation concerning vibration, a prime concern due to the large machine manufacturing industry in Germany. The resolution of the directives on risks arising physical agents coincides with Presidencies who attribute relatively high salience to occupational health and safety.

A subsequent statistical analysis confirms the positive relationship between the importance the Council Presidency attaches to a policy and legislative activity

(Hypothesis 1). Based on an original data set looking at 35 Presidencies from 1984 through 2001, it reveals a statistically significant relationship between the Presidency's salience and political agreements reached in environmental policy. Two Presidencies are outliers and do not conform to this general pattern. Otherwise, however, the effect is robust even when controlling for the average salience of Council members, the position of environmental leaders, the number of pending regulations and proposals to which qualified majority voting applies. The distinction between small and large member states at the helm, which was mentioned in the literature and by my interview partners, does not seem to have an effect.

With regard to the Presidency's influence on decision outcomes (Hypothesis 2) I present the results of an extensive secondary analysis of the data set gathered by the 'Decision-making in the European Union' project. Unlike existing studies, I proceed on the issue level. The data cannot be compared directly across issues due to the measurement technique that has been used. My measurement and research design builds directly on a discussion of the general literature on power. The empirical study of power is a daunting task. One of the major challenges involves the distinction between power and luck. I employ two different measurement and research designs. Influence can be measured by considering the absolute utility change an actor experiences. However, as I explain in chapter 7 this poses the difficulty of controlling for the position of other bargaining partners, who might have been decisive in bringing about the outcome. An actor who gains absolute utility might not be powerful but merely lucky. This can be directly incorporated into the measurement by considering the utility change relative to a counterfactual outcome. To establish the counterfactual, we can rely on widely used bargaining models. I use two models, the compromise and pivot model, which build on different characterizations of Council decision-making to cross-validate my findings. In

terms of research design, the comparison can be made for one member state across time and between member states. The comparison across time effectively limits the analysis to only two Presidencies and requires an assumption with respect to the time period for which the power of the Presidency should matter. In contrast, comparing between ordinary member states and member states that have been involved in the Council Presidency during the negotiations allows a much more comprehensive analysis. Analysing the Presidency based on a comparison across member states and building on counterfactuals yields strong evidence for an influence of the Presidency on decision outcomes. Member states holding the Presidency during the final stages of negotiations are more likely to win relative to both the compromise and pivot model predictions. This effect is highly statistically significant and robust, even when controlling for the support of the Commission and European Parliament, the legislative procedure, the applicable voting threshold, the type of proposal, and the salience of the Presidency.

Further empirical research is needed to investigate in more detail what mechanism explains the influence of the Presidency during the final stages of the legislative negotiations. The Presidency could influence decision outcomes via its procedural prerogatives, superior knowledge of bargaining positions, or a combination of both. The absence of a robust effect for member states holding the Presidency during the introduction of a proposal points against effective framing of the issues by the Presidency or the accommodation of the Presidency's preferences by the Commission. Indeed, this study corroborates earlier findings on the influence of the Commission in legislative decision-making. However, further research is needed to delineate the causal direction between support of the Commission and utility gains from decision outcomes. Procedural prerogatives in the Council should have been effective during the first reading agreement in the Council or during other time periods. In the final stages in co-

decision, the relais function of the Presidency vis-à-vis the supranational actors is most pronounced. Thus, the findings suggest that the Presidency mainly benefits from an informational asymmetry and the time pressure in the final stages of negotiations.

Future research can also build on the results established by this thesis with regard to legislative activity. More research is needed to clarify if the pattern identified in this study is also valid in other areas (e.g., social policy). Furthermore, using a nested research design case studies can complement and further probe these results by studying the performance of a particular Presidency in the environmental field in more detail. Using the information provided by this study on the comparative performance of a given Presidency, future research can now scrutinize why some Presidencies were more successful than others and how a Presidency achieved a higher level of political agreement in the Council. For example, a comparative study of landmark regulations could assess the relevance and tools of the Presidency in pushing for EU legislation in more detail.

The empirical results of this study all relate to the period before the Eastern Enlargement in 2004 nearly doubled the membership in the Council. As some of my interview partners have pointed out, in the enlarged Union the Presidency might be too overburdened to exercise any power. However, the discussions in the Convention on the Future of Europe have made clear that the complexity of negotiations in the Council will increase due to enlargement. This not only raises the need for leadership but puts the Presidency into an even more crucial position in legislative decision-making in the Council.

In all likelihood, the intergovernmental conference in 2007 will adopt a reform treaty including a team presidency for the Council of Ministers and a longer-term elected President for the European Council. As has been pointed out by one of my interview partners, the Team Presidency so far amounts to no substantial coordination among its constituent Presidencies. This is unlikely to change in the future. The President of the European Council will be elected for a longer time period, but he is too far removed from the legislative deliberations in the Council and its working groups to exercise a notable influence. While the office of the European Council President will be influential in the strategic development of the Union, its impact on legislative politics will be severely limited. In the mean time, the post-enlargement Council will depend to an ever larger extent on the coordination provided by the Council Presidency. Debates on legislative proposals are likely to cut across several cleavages and raise even more idiosyncratic concerns of individual member states. In the Union of 27, solutions cannot be found in *tour de tables* any more. Thus, the demand of leadership by the Presidency and subsequently its impact on EU legislation is likely to increase. However, the strains on the Presidency in steering the Union will also increase which might leave some member states overburdened and unable to pursue their own 'hidden agenda'.

Despite the aforementioned limits some policy implications can be drawn from this study. The rotating Council Presidency has been a prominent topic during recent discussions on the constitutional treaty. On the one hand, the leadership function of the Presidency ensures (more) efficient negotiations as speakers have pointed out. On the other hand, the delegation of special powers raises the spectre of agency drift as has been noted in the discussions in the Convention. Member states can (ab-)use the powers of the Presidency to move decision outcomes towards their preferences. Member states from smaller countries thus strongly opposed any change from the system of rotation

and short terms of office, which limits the powers of the Presidency and distributes it equally. This thesis shows that member states indeed do not feel themselves sufficiently bound by the norm of the impartial Presidency to act as a 'benevolent dictator' in the common interest. The representatives of smaller member states were right in suspecting a shift in power with the move to an elected long-term Presidency, which would presumably be dominated by larger member states. This puts a stark choice to the framers of a future constitution: the rotating Presidency can be replaced by a neutral office of a mere legislative clerk or its powers can be acknowledged and the Presidency can be made politically accountable.

Appendix A: Interview Guide

1. Several observers have noted that EU legislation is often considered for a long period of time in the Council of Ministers before it is adopted. This is frequently attributed to the necessity of finding consensus in view of **high voting thresholds**, which might only be overcome by linking several issues. In your view, how important are **issue-linkages** in resolving EU legislation? Is the **Council Presidency** the **primary broker** in these negotiations?
2. The Council Presidency start their term of office with a **working programme**, defining priorities in the legislative arena, and after months, sometimes years of **preparation**. From your experience, how much do Presidencies focus on advancing individual proposals that are already in the legislative process or on initiating new proposals by the Commission? Does the Presidency consult other member states and other legislative bodies in advance with specific proposals?
3. Once in office, these efforts to structure their Presidency might be impaired by **unforeseen events** requiring the attention of the Presidency, the **state of various proposals that are in the pipe-line**, and the restraints of **multi-annual workings programmes** and **cooperation within the troika**. From your experience, do Council Presidency nevertheless try to attach different weight to different proposals in line with their priorities? Does, for example, the **frequency of meetings** of informal Councils and workings groups vary across Presidencies in your policy field? **How much freedom does the Council Presidency enjoy in managing the decision-making process in the Council? Could it keep proposals effectively off the agenda (gate-keeping power)?**
4. From your experience, is the **timing of the final adoption** of a proposal in protracted negotiations driven by a **new impetus from an interested Council Presidency**? Or is it always solely due to the natural development of negotiations, e.g. resolving technical and political issues or developments in the discussion of related proposals? How often are proposals deliberately revitalized by a Council Presidency relative to it coming to the top of the agenda because of **external events** or the **prodding of other member states or legislative bodies**? (*figures in the literature range from 5-20%*)
5. Under **co-decision** a proposal can be adopted within its first reading. Potentially, a proposal could be initiated, discussed, and be adopted in the six months of a Presidency. In your opinion, has co-decision increased the impact of the Presidency? Or is the necessity of gaining approval in the Council and by the other legislative bodies too restraining for such a fast-track approach?
6. It has been frequently pointed out that the **high voting threshold** in the Council makes it difficult to achieve outcomes in regulations which go beyond the **lowest common denominator** or to reach any agreement for a European-wide regulation at all. In your experience, **does the Council Presidency provide an opportunity for a country with high regulatory standards to build a consensus towards a European regulation?** Could you point out specific examples?
6. Some scholars argue that **enlargement** will overburden the coordinating function of the Council Presidency, thus leaving no room for it to pursue its priorities in the limited time it is in office. It has already been suggested in the past that an extension of the Presidency's time in office is in order. Do you think that the present **six months** are **too short** to pursue any substantial priorities? Is the Presidency too much constrained by the number and nature of proposals that are already at an advanced state in the decision-making process? **Or are there enough proposals close to adoption from which the Presidency can 'pick and choose' according to its priorities?**
7. Some scholars argue that the Council Presidency can use the **information** on member states' reservations that it gains in confessional talks to disproportionately benefit from the final outcome of a legislative procedure. Others point out that in **long and protracted negotiations** all member states are eventually aware of the positions of each member state, thus denying that the Council Presidency has an informational advantage. In your opinion, **does the Council Presidency – assisted by the General-Secretariat – in general know more about the positions of each member state than the other member states?**
8. The Council Presidency has the **prerogative of tabling proposals** and putting them to a vote without the formal support of other member states. From your experience, **will member states wait for a Presidency compromise in protracted negotiations or advance their own proposal?** How much **room of manoeuvre** does the Council Presidency have in making its proposal and structuring the decision-making process with regard to the final vote?

9. Two constraints on the Presidency's ability to give nuances to EU legislation during their term are the '**culture of consensus**', even when QMV is applicable, and the '**norm of impartiality**'. The first could impair any attempts to reach an agreement and the latter would ensure, that the Presidency does not emphasize issues according to its own priorities or 'flavour' its compromise proposals according to its own interests. In your view, how effective are these norms? **Does decision-making take place under the 'shadow of the vote'?** **Is it accepted practice that a Presidency tries to put its stamp on its term?**

10. A distinction is often made between **small and large member states** with regard to their **administrative capacity**. From your experience, does it make a difference whether a large or a small state holds the Council Presidency for the **actual performance of Council decision-making**?

11. Debates on EU legislation are often described in terms of different view-points between the **left** and the **right** of the political spectrum, proponents of **high regulation** or **de-regulation**, adherents of **more or less integration**. In your experience, how much of the debates surrounding EU proposals for adoption can be effectively subsumed under these headings? Are there **permanent alliances** (e.g., northern vs. southern states) in general or with respect to policy fields? Or centred discussions around mainly idiosyncratic features of a given proposal?

12. The opportunity of the Council Presidency to add nuances to the legislative programme is variously described as a potential for **abuse** or for reaching a **good 'policy mix'**, in turn bringing the concerns of the citizen's of each member state to the forefront. On balance, do you think the Council Presidency should be able to steer the EU legislation according to its priorities?

Appendix B: Institutional Affiliation of Interview Partners

#	Organization	#	Organization
1	European Commission	17	National Representation, Germany
2	European Commission	18	National Representation, Finland
3	European Commission	19	European Environmental Bureau
4	Weber Shandwick	20	National Representation, Sweden
5	National Representation, Belgium	21	National Representation, Italy
6	National Representation, Portugal	22	Council of Ministers, General Secretariat
7	Council of Ministers, General Secretariat	23	European Trade Union Confederation
8	Council of Ministers, General Secretariat	24	National Representation, Luxembourg
9	National Representation Denmark	25	National Representation, The Netherlands
10	National Representation, Ireland	26	European Parliament
11	European Commission	27	Council of Ministers, General Secretariat
12	European Economic and Social Committee	28	Union of Industrial and Employer's Confederations of Europe
13	Council of Ministers, General Secretariat	29	Union of Industrial and Employer's Confederations of Europe
14	European Commission	30	European Economic and Social Committee
15	European Parliament	31	National Representation, Germany
16	Council of Ministers, General Secretariat	32	National Representation, Austria

All interviews were carried out in June 2005.

Further details are available upon request.

Appendix C: Legislative Activity in the Council, 1984 - 2003

Year	1984		1985			1986		1987		1988	
	France	Ireland	Italy	Luxembourg	Netherlands	UK	Belgium	Denmark	Germany	Greece	
Administration	0,00%	0,00%	25,00%	75,00%	0,00%	0,00%	0,00%	66,67%	0,00%	40,00%	
Agriculture	58,54%	30,53%	54,21%	39,67%	62,09%	35,56%	28,87%	48,98%	27,94%	46,27%	
Budget	4,76%	0,00%	0,00%	0,00%	0,00%	0,00%	0,00%	0,00%	3,13%	0,00%	
Competition	0,00%	25,00%	0,00%	0,00%	40,00%	33,33%	0,00%	33,33%	0,00%	0,00%	
Consumer	12,50%	0,00%	0,00%	11,11%	11,11%	12,50%	0,00%	20,00%	33,33%	14,29%	
Culture	0,00%	0,00%	0,00%	0,00%	0,00%	0,00%	0,00%	0,00%	0,00%	0,00%	
Customs	34,55%	60,24%	42,86%	54,13%	47,96%	59,50%	34,83%	62,89%	44,66%	60,71%	
Development	44,44%	50,00%	22,22%	20,00%	38,46%	23,08%	46,67%	18,18%	0,00%	0,00%	
Economics	4,17%	20,69%	10,71%	25,81%	3,85%	23,33%	10,00%	7,14%	14,29%	21,21%	
Energy	12,50%	11,11%	0,00%	46,15%	0,00%	0,00%	0,00%	0,00%	0,00%	11,11%	
Enlargement	0,00%	0,00%	0,00%	0,00%	0,00%	0,00%	0,00%	0,00%	0,00%	0,00%	
Enterprise	0,00%	0,00%	0,00%	0,00%	0,00%	0,00%	0,00%	0,00%	0,00%	0,00%	
Environment	43,75%	8,33%	33,33%	21,43%	35,29%	37,50%	35,29%	36,84%	45,45%	14,29%	
External	50,00%	58,33%	50,00%	58,49%	56,86%	60,34%	38,64%	50,85%	41,30%	47,37%	
Fisheries	41,67%	48,94%	28,57%	59,65%	38,46%	60,34%	42,22%	63,79%	31,43%	50,00%	
Information	0,00%	50,00%	0,00%	0,00%	25,00%	75,00%	75,00%	75,00%	50,00%	40,00%	
Internal	13,64%	14,63%	8,00%	22,64%	16,33%	36,00%	13,21%	26,92%	22,00%	40,35%	
JHA	0,00%	0,00%	0,00%	0,00%	0,00%	0,00%	0,00%	0,00%	0,00%	0,00%	
Other	50,00%	100,00%	0,00%	28,57%	100,00%	33,33%	100,00%	66,67%	50,00%	66,67%	
Regional	87,50%	0,00%	0,00%	85,71%	0,00%	66,67%	0,00%	0,00%	0,00%	0,00%	
Research	66,67%	14,29%	87,50%	50,00%	100,00%	0,00%	100,00%	100,00%	44,44%	83,33%	
Social	14,29%	17,65%	15,79%	18,18%	11,11%	21,05%	5,56%	9,09%	26,09%	15,38%	
Trade	0,00%	0,00%	0,00%	0,00%	0,00%	0,00%	0,00%	0,00%	0,00%	0,00%	
Transport	8,33%	11,43%	8,57%	20,00%	8,33%	10,26%	5,26%	19,05%	7,32%	6,25%	

Appendix C continued

Year	1989		1990		1991		1992		1993	
	Spain	France	Ireland	Italy	Luxembourg	Netherlands	Portugal	UK	Denmark	Belgium
Administration	25,00%	25,00%	33,33%	0,00%	0,00%	40,00%	30,00%	0,00%	12,50%	11,11%
Agriculture	47,86%	31,09%	45,38%	34,08%	44,05%	25,85%	45,49%	28,50%	28,44%	22,34%
Budget	0,00%	0,00%	0,00%	0,00%	5,13%	0,00%	0,00%	0,00%	9,09%	0,00%
Competition	0,00%	50,00%	0,00%	25,00%	20,00%	20,00%	0,00%	33,33%	0,00%	20,00%
Consumer	25,00%	12,50%	25,00%	12,50%	0,00%	0,00%	12,50%	12,50%	0,00%	27,27%
Culture	0,00%	0,00%	0,00%	66,67%	0,00%	0,00%	0,00%	0,00%	0,00%	0,00%
Customs	30,00%	57,02%	29,59%	52,85%	30,68%	43,12%	24,44%	40,50%	39,09%	40,80%
Development	0,00%	5,88%	21,05%	10,00%	23,08%	9,09%	4,55%	9,52%	0,00%	4,55%
Economics	19,35%	6,45%	12,50%	6,25%	17,07%	20,00%	13,89%	12,82%	14,58%	22,00%
Energy	0,00%	0,00%	18,18%	8,33%	0,00%	15,38%	7,69%	0,00%	0,00%	7,69%
Enlargement	0,00%	0,00%	0,00%	0,00%	0,00%	0,00%	0,00%	0,00%	0,00%	0,00%
Enterprise	100,00%	0,00%	0,00%	33,33%	25,00%	33,33%	33,33%	0,00%	50,00%	0,00%
Environment	25,00%	15,00%	32,00%	19,23%	23,08%	38,71%	27,59%	15,38%	18,75%	12,90%
External	35,09%	53,33%	35,48%	55,95%	41,33%	46,24%	50,00%	41,90%	29,79%	50,81%
Fisheries	30,56%	59,02%	42,86%	58,62%	21,62%	56,45%	30,77%	63,24%	36,17%	58,90%
Information	83,33%	50,00%	66,67%	60,00%	33,33%	80,00%	33,33%	14,29%	37,50%	33,33%
Internal	26,67%	17,02%	20,00%	24,07%	4,17%	25,86%	15,63%	29,49%	23,88%	22,58%
JHA	0,00%	0,00%	0,00%	0,00%	0,00%	0,00%	0,00%	0,00%	0,00%	0,00%
Other	42,86%	100,00%	33,33%	79,31%	46,15%	55,56%	8,33%	38,89%	47,37%	33,33%
Regional	0,00%	0,00%	0,00%	0,00%	0,00%	0,00%	0,00%	0,00%	0,00%	50,00%
Research	63,64%	86,67%	0,00%	64,29%	44,44%	69,23%	42,86%	0,00%	0,00%	14,29%
Social	27,59%	26,92%	4,55%	14,29%	15,63%	21,21%	19,35%	3,57%	14,71%	15,63%
Trade	0,00%	0,00%	0,00%	0,00%	0,00%	0,00%	0,00%	0,00%	0,00%	0,00%
Transport	21,05%	6,25%	9,62%	16,39%	11,86%	15,25%	13,79%	9,09%	0,00%	15,79%

Appendix C continued

Year	1994		1995			1996		1997		1998	
	Greece	Germany	France	Spain	Italy	Ireland	Netherlands	Luxembourg	UK	Austria	
Administration	0,00%	0,00%	20,00%	25,00%	0,00%	18,18%	0,00%	37,50%	8,33%	33,33%	
Agriculture	13,95%	25,76%	27,43%	18,52%	16,53%	28,28%	21,28%	17,54%	21,83%	13,93%	
Budget	0,00%	2,27%	0,00%	2,33%	0,00%	0,00%	2,17%	0,00%	0,00%	0,00%	
Competition	0,00%	20,00%	20,00%	0,00%	0,00%	14,29%	42,86%	20,00%	33,33%	0,00%	
Consumer	9,09%	0,00%	23,08%	9,09%	0,00%	0,00%	15,38%	0,00%	7,14%	10,53%	
Culture	0,00%	0,00%	50,00%	0,00%	50,00%	0,00%	0,00%	0,00%	25,00%	50,00%	
Customs	27,27%	27,10%	17,89%	24,55%	21,43%	16,49%	34,19%	14,29%	10,59%	15,09%	
Development	12,50%	12,00%	4,55%	13,33%	10,00%	0,00%	9,68%	10,00%	3,33%	13,79%	
Economics	10,87%	14,00%	12,24%	8,51%	10,20%	7,84%	9,26%	12,96%	14,29%	11,11%	
Energy	0,00%	6,67%	11,76%	10,00%	25,00%	21,05%	6,25%	16,67%	0,00%	21,05%	
Enlargement	0,00%	0,00%	0,00%	0,00%	0,00%	0,00%	0,00%	0,00%	0,00%	0,00%	
Enterprise	0,00%	0,00%	0,00%	0,00%	0,00%	9,09%	0,00%	0,00%	0,00%	0,00%	
Environment	26,67%	7,41%	17,24%	0,00%	11,11%	5,71%	5,26%	20,45%	17,50%	5,26%	
External	35,42%	46,92%	40,37%	35,48%	39,52%	27,27%	26,72%	34,51%	41,29%	46,54%	
Fisheries	33,33%	60,00%	37,74%	54,32%	34,48%	57,69%	32,73%	47,30%	30,91%	53,52%	
Information	0,00%	15,38%	25,00%	18,18%	25,00%	25,00%	0,00%	18,18%	0,00%	25,00%	
Internal	14,81%	4,26%	8,00%	17,74%	18,03%	14,29%	21,54%	15,79%	10,71%	12,73%	
JHA	0,00%	0,00%	0,00%	0,00%	0,00%	0,00%	0,00%	0,00%	0,00%	0,00%	
Other	15,38%	15,38%	11,11%	36,84%	26,32%	29,41%	14,29%	27,27%	29,17%	30,00%	
Regional	50,00%	33,33%	33,33%	0,00%	0,00%	0,00%	0,00%	0,00%	0,00%	0,00%	
Research	25,00%	75,00%	0,00%	14,29%	28,57%	28,57%	0,00%	14,29%	28,57%	53,33%	
Social	12,50%	3,45%	14,29%	17,14%	8,57%	17,95%	14,29%	17,50%	17,07%	12,20%	
Trade	0,00%	0,00%	0,00%	0,00%	0,00%	0,00%	0,00%	0,00%	0,00%	0,00%	
Transport	10,91%	12,50%	7,55%	5,66%	3,85%	5,26%	7,14%	5,36%	7,02%	9,84%	

Appendix C continued

Year	1999		2000		2001		2002		2003	
	Germany	Finland	Portugal	France	Sweden	Belgium	Spain	Denmark	Greece	Italy
Administration	15,38%	7,69%	16,67%	16,67%	0,00%	16,67%	14,29%	33,33%	0,00%	21,43%
Agriculture	17,19%	10,88%	7,73%	13,17%	12,00%	8,67%	5,70%	6,90%	11,11%	9,50%
Budget	0,00%	0,00%	1,64%	1,64%	0,00%	0,00%	0,00%	2,86%	23,17%	2,99%
Competition	33,33%	0,00%	14,29%	0,00%	0,00%	0,00%	22,22%	12,50%	14,29%	12,50%
Consumer	0,00%	25,93%	28,57%	17,86%	17,65%	18,18%	16,13%	29,73%	38,46%	18,92%
Culture	0,00%	25,00%	20,00%	70,00%	44,00%	71,43%	50,00%	25,00%	40,00%	42,86%
Customs	19,63%	21,55%	19,83%	20,47%	23,28%	10,20%	19,27%	16,81%	20,37%	10,78%
Development	3,70%	19,44%	18,18%	13,51%	21,05%	23,08%	17,14%	14,71%	21,62%	24,32%
Economics	5,56%	10,17%	21,31%	15,69%	4,44%	12,00%	2,22%	8,51%	0,00%	4,44%
Energy	11,11%	6,25%	6,25%	0,00%	6,25%	0,00%	10,00%	16,67%	0,00%	7,69%
Enlargement	0,00%	29,63%	11,48%	45,61%	21,88%	48,21%	21,62%	14,71%	15,15%	8,57%
Enterprise	9,09%	10,34%	27,27%	27,27%	33,33%	30,00%	20,69%	13,79%	46,15%	21,05%
Environment	16,67%	12,77%	10,64%	11,11%	36,76%	12,50%	8,70%	20,34%	15,09%	5,56%
External	33,79%	21,43%	12,00%	19,09%	16,19%	10,00%	18,35%	17,92%	13,46%	20,72%
Fisheries	22,45%	31,37%	22,45%	30,77%	32,69%	31,48%	28,26%	34,62%	19,15%	26,23%
Information	10,00%	0,00%	10,00%	18,18%	25,00%	25,00%	10,00%	0,00%	18,18%	0,00%
Internal	7,02%	9,09%	5,45%	7,41%	9,09%	7,14%	15,00%	3,70%	10,71%	10,00%
JHA	0,00%	0,00%	11,11%	40,00%	52,63%	20,00%	29,17%	20,00%	16,13%	21,21%
Other	14,81%	7,14%	23,33%	3,70%	12,12%	20,51%	38,24%	14,29%	31,25%	22,22%
Regional	71,43%	0,00%	0,00%	0,00%	0,00%	33,33%	0,00%	50,00%	0,00%	0,00%
Research	54,55%	28,57%	0,00%	16,67%	16,67%	25,00%	30,77%	40,00%	46,15%	46,15%
Social	17,02%	2,50%	6,82%	16,67%	9,09%	8,89%	4,55%	0,00%	10,20%	4,08%
Trade	0,00%	57,14%	53,06%	67,57%	65,91%	59,38%	59,04%	47,37%	56,58%	49,18%
Transport	5,08%	4,92%	1,72%	0,00%	7,81%	4,76%	3,03%	5,97%	5,97%	3,08%

Appendix C continued

Year	Summary Statistics		Pending proposals		Ratio addressed/pending	
	Average	Range	Minimum	Average	Minimum	Maximum
Administration	16,70%	75,00%	2	9,05	0,00%	75,00%
Agriculture	27,34%	56,39%	131	218,75	5,70%	62,09%
Budget	1,53%	23,17%	21	43,525	0,00%	23,17%
Competition	13,99%	50,00%	2	5,15	0,00%	50,00%
Consumer	13,20%	38,46%	7	15	0,00%	38,46%
Culture	15,75%	71,43%	0	3,3	0,00%	71,43%
Customs	32,04%	52,69%	55	105,8	10,20%	62,89%
Development	15,42%	50,00%	9	23,75	0,00%	50,00%
Economics	12,04%	25,81%	24	42,1	0,00%	25,81%
Energy	8,02%	46,15%	7	13,925	0,00%	46,15%
Enlargement	5,42%	48,21%	0	11,775	0,00%	48,21%
Enterprise	13,08%	100,00%	0	11,125	0,00%	100,00%
Environment	20,15%	45,45%	12	32,45	0,00%	45,45%
External	37,73%	50,34%	26	92,5	10,00%	60,34%
Fisheries	41,12%	44,64%	35	53,425	19,15%	63,79%
Information	28,75%	83,33%	1	7,45	0,00%	83,33%
Internal	16,14%	36,65%	41	55,1	3,70%	40,35%
JHA	5,26%	52,63%	0	5,125	0,00%	52,63%
Other	37,58%	100,00%	1	16,85	0,00%	100,00%
Regional	14,03%	87,50%	1	2,7	0,00%	87,50%
Research	40,09%	100,00%	1	8,375	0,00%	100,00%
Social	13,31%	27,59%	14	32,95	0,00%	27,59%
Trade	12,88%	67,57%	0	17,225	0,00%	67,57%
Transport	8,53%	21,05%	35	53,325	0,00%	21,05%

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