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EU Intergovernmental Conferences and Domestic Politics
An empirical application of the Putnam Conjectures

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Abstract

This quantitative study examines the relative impact of domestic and international determinants on the success of EU constitution-building conferences and on the distribution of benefits to the negotiating governments. How do governmental organization and the distribution of within-cabinet preferences of EU member states translate into EU constitution-building? In a seminal article on the relation between domestic and international politics, Robert Putnam conjectured that the chance of a successful agreement of international negotiations is the higher, the larger the win sets of the participating negotiating actors, and the benefits as achieved by each of the negotiators are expected to be the higher, the smaller the respective governmental win sets. Using quantitative data for the complex multi-lateral, multi-level, multi-issue negotiation system resulting into the Amsterdam treaty, we take into account organizational structures as well as constitutional preferences of the involved members of the cabinets at that time. Contrary to Putnam's conjecture 1, statistical analyses indicate that *'joint international unanimity win set size'* was neither a sufficient nor a necessary condition for successful negotiations. It was the exercise of power and intranational conflicts that have been conducive to a transition of the international status quo. Contrary to Putnam's conjecture 2, small governmental win set size did not constitute a negotiation advantage at the international level. Rather, the collective decision to go beyond the status quo and the declared win set sizes combined to affect the utility income of the cabinet pivot.

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Introduction[1]

Formal constitution-building of the European Community/European Union continues to proceed gradually via intergovernmental conferences. Whereas an extensive literature on the institutionalization of Europe[2] focuses on the impact of transnational relations, on top-down supranational legislation and on judicial review on the shape of societies and political systems of the EU member states, the opposite question remains legitimate: Which impact have existing organizational structures and the distribution of preferences of formally elected governments on the outcomes of such conferences?

Intergovernmentalism views European integration as a sequence of intergovernmental bargains on treaties with the governments continuing to be the 'Masters of the Treaty' (Moravcsik 1991, 1993, 1998). In this view, power asymmetries between nations find their way into the choice of constitutional options. Intergovernmentalism accentuates the role of national governments and political leaders in the process of constitutionalization. It

> "focuses on the interstate bargains between the heads of government… [and] stresses the central importance of powers and interests… Heads of government, backed by a small group of ministers and advisors, initiate and negotiate [cooperation]. Each government views the [cooperative agreement] through the lens of its own policy preferences; [cooperation] is the continuation of domestic politics by other means" (Moravcsik 1991: 46-47).

Whereas Realism assumes domestic institutions to be irrelevant, because nations are considered to react in a similar way externally, intergovernmentalism is, in principle, open for the consideration of domestic factors.[3] However, it lacked a consistent theory of how state preferences are formed.[4] Are they structurally determined by geostrategic considerations and therefore relatively stable? Or do they fluctuate according to the ideosyncratic ideas of political leaders? Only recently, the main proponents of intergovernmentalism tried to develop an systematic account of the formation of domestic preferences. Moravcsik/Nikolaïdis (1999) present three different approaches to the domestic formation of national preferences: the garbage can approach denies the existence of fixed initial preferences. Positions are learned during interstate negotiations. The ideological and geostrategic approach respectively expects given and stable preferences mirroring national interests. The third approach allows for issue-specific position taking – and therefore for domestic heterogeneity. According to these authors, the third approach is most appropriate in empirically explaining the Amsterdam outcome. We take this argumentation and the rich insights of these authors as a starting point for a theoretical as well as empirical extension.

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[2] Cf. pars pro toto Stone Sweet (2001).

[3] This point has been emphasized by Milner (1997a and 1997b).

[4] Cf. Putnam/Bayne (1987).

We consider the multi-level approach in international relations (cf. Milner 1997a) as a useful framework for the analysis of domestic preference formation and its impact on international negotiations in general, and on European constitutionalization more specifically. Since the seminal article of Robert Putnam (1988) on 'two-level games', studies on multi-tiered and connected decision-making processes are a growth industry. Still, despite the contributions of formal (Mo 1995, Iida 1993a,b, Milner 1997) as well as informal studies (Hooghe/Marks 2001, Laursen 2003), we have not yet quantitative evidence on the relation between domestic restrictions and international negotiations. Even proponents of the concept of multi-level decision-making are rather sceptical about its empirical applicability: "Although promising as a framework for analysis, this approach does not constitute a theory with testable hypotheses, as even its proponents admit." (Milner 1997a: 4). Just this is the objective of this study: to present a conceptualization of multilevel negotiations that is conducive to the empirical testing of hypotheses. As there is no quantitative study about the connectedness of EU intergovernmental conferences and domestic formation of constitutional bargaining positions we will provide an operational framework for a systematic analysis of the interplay between domestic and interstate structures.

Whereas the connectedness of levels is frequently designed by the mechanism of 'ratification' of international agreements, we will highlight the argument that Putnam's concept of 'two-level games' is flexible enough to consider both the preparatory stages of international negotiations as well as the ratification stage. Contrary to the 'model set up' as provided by Milner (1997a) we offer a specific research design for the respective study of cabinets in parliamentary systems. In these systems, ministries are the functional equivalent of committees in the US system. They are agenda setters and dispose over informational advantages with regard to the negotiation issues. We investigate whether within-cabinet conflicts were favorable to a transition of the status quo. How did they determine the utility gains from agreements? Third, we ask, whether preparatory stages of foreign policy rather than ex-post ratification provisions had the presumed influence on these outcomes. Fourth, we assess the impact of information asymmetries and incompleteness of the commitment to initially declared negotiation positions. Fifth, we compare the relative influence of domestic and international determinants.

Our quantitative case study focuses on the EU Intergovernmental Conference 1996 which resulted into the Amsterdam treaty. We use a new data set containing quantitative data for this multi-lateral, multi-issue, multi-level negotiation system (cf. Thurner/Pappi/Stoiber 2002) where relevant domestic organizational structures as well as preferences of the involved governmental actors (EU member states' ministries, premiers' offices and – where existent – presidential offices) have been identified and measured. In order to test Putnam's conjectures, we operationalize the within-cabinet distribution of formal competencies and of preferences of EU member states at that time.

Contrary to Putnam's conjecture 1, statistical analyses indicate that *'joint international unanimity win set size'* was neither a sufficient nor a necessary condition for successful negotiations. Rather, it was the exercise of power and intranational conflict that was conducive to a transgression of the status

quo. Contrary to Putnam's conjecture 2, small governmental win set size constituted no negotiation advantage. Rather, the collective decision to go beyond the status quo and the declared win set sizes combined to affect the utility income of the cabinet pivot. Leverage bargaining in this highly institutionalized context seemed to be outweighted by (coerced) information revelation and compromising. Further important findings are that divided government was detrimental to the within-government pivotal actor's utility.

First, we will discuss the suggestions of Putnam with regard to an operational design of multi-level decision-making. Next, we provide an informal conceptualization, followed by formal operational definitions, assumptions and hypotheses. Finally, we present results of our empirical analyses.

The Putnam Conjectures Revisited

In his seminal article 'Diplomacy and domestic politics: the logic of two-level games', Robert Putnam (1988) conceived the nesting of international negotiations and domestic politics as a simple game of ratification of international treaties. He calls level 1 the international level where international negotiations take place between mandated national delegates, whereas on the intranational level 2 the ratification is assumed to take place, i.e. the official procedure of formal implementation by voting an international package treaty. However, the author already accentuated the simplified character of this representation:

> "This sequential decomposition into a negotiation phase and a ratification phase is useful for purposes of exposition, <u>although it is not descriptively accurate</u>. In practice, <u>expectational</u> effects will be quite important. There are likely to be <u>prior consultations and bargaining</u> at level 2 to hammer out an initial position to the level 1 negotiations. […] In many negotiations, the two-level process may be <u>iterative</u>, as the negotiators try out possible agreements and probe their constituents' views." (Putnam 1988: 436, authors' emphasis)

Actually, he takes into account both formal ex-post ratification requirements as stipulated by the constitution, as well as informal ex-ante bargaining and communication/endorsement processes within the shadow of a governmental hierarchy: "I use the term [ratification] generically to refer to any decision-process at level 2 that is required to endorse or implement a level 1 agreement, whether formally or informally" (Putnam 1988: 437).

The conjectures read as follows:

Conjecture 1: International agreements will be more likely, the larger the national win sets.[5]

Conjecture 2: The larger a country's win set as compared to other countries' win sets, the less this country will benefit from the agreement.[6]

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[5] "First, larger win sets make Level 1 agreements more likely, ceteris paribus. By definition, any successful agreement must fall within the Level 2 win sets of each of the parties to the accord. Thus agreement is possible only if those win sets overlap, and the larger the win set, the more likely they are to overlap" (Putnam 1988: 437/438).

Substantially, in a spatial theory of voting setting conjecture 1 means that the more the declared bliss points of the governments' depart from the status quo, the simpler it is to reach an international agreement, because negotiation parties are flexible in finding mutually acceptable compromises. Conjecture 2 on the other hand says that a government is favored internationally by strong and credible domestic restrictions such that the outcome of international agreements is expected to be closer to their bliss points.[7]

These conjectures have been discussed especially with regard to their informational assumptions. The main critique is that as long as complete and perfect information is assumed we should not observe failures of international negotiations. Several articles (Iida 1993a,b, Mo 1994, 1995, Milner 1997a, Pahre 1997) determine informational conditions for given preferential constellations that favor or disfavor international cooperation, respectively. Milner (1997a) shows that the negative effects of divided government and informational asymmetries can be avoided in case of endorsement. In the following, we restrict our focus on further problems that have to be considered when translating the Putnam conjectures into an operational design.

Transaction costs of bargaining, bias on bilateral negotiations, and dynamics
Putnam states: "Thus agreement is possible only if those win sets overlap, and the larger the win sets, the more likely they are to overlap" (Putnam 1988: 438). However, the largeness of an intersecting set of possible outcome points may even negatively correlate with the chances of successful agreements, due to increasing transaction costs of finding a single solution within the resulting agreement sets.[8] The existence of overlapping sets that are jointly approved domestically – be it the negotiation set[9] or be it overlapping win sets – does not guarantee an agreement as long as the coordination problem of selecting an agreement point is not resolved. This problem may be aggravated in case of multilateral negotiations.

Domestic decision-making processes in parliamentary systems cabinets
Conjecture 2 states that 'joint utility' is increased in case of high domestic restrictions. As soon as we give up the unitary actor assumption – as so convincingly propagated by Putnam – it is necessary to specify which actor(s) benefit(s) from an agreement, and how domestic restrictions have to be conceived. Formal analyses on two-level games focus on the configuration of the preferences of involved actors (Mo 1995, Milner 1997a) and their voting power. As a rule, applied studies provide stylized representations of political systems US style (one president, one chamber, two endorsers).

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[6] "The second reason why win set size is important is that the relative size of the respective Level 2 win sets will affect the distribution of the joint gains from the international bargains. The larger the perceived win set of a negotiator, the more he can be 'pushed around' by other Level 1 negotiators." (Putnam 1988: 440).

[7] See already Schelling (1960: 22), where the author defined 'bargaining power' as the power to bind oneself.

[8] In a thorough discussion of the relationship between win set size and policy stability, Tsebelis (2002) argues that win set size is only a necessary condition for a transgression of the status quo.

[9] Contrary to Cooter (1999: 215) who uses the term *bargaining set* for the intersection of the Pareto set and the win set, we call it negotiation set in order to avoid confusion - *bargaining set* has been defined in coalition theory by Schofield (1978).

The policy-making mechanisms of non-presidential systems and their distinct impact on international negotiations have not been discussed so far.

Connectedness of the conjectures, value of the status quo, and strategic signaling

Benefits of an agreement, too, are defined over the negotiation outcome[10]. Therefore, both conjectures refer to the negotiation outcome. Whereas conjecture 1 argues on the level of a negotiation issue and refers to the collective decision, the second conjecture is actor-specific and refers to the governmental utility income. Analogous to recent studies (Hamada/Kawai 1997, Murdoch/Sandler/Vijverberg 2003), one could argue that the decision to consent to a transition of the status quo and the decision about the amount of costs to incur, are connected. And, given a legally defined status quo, some negotiators may get the highest utility from a maintenance of the status quo, anyway. How does the existence of a constitutionally enforced status quo impact the postulated relationship?

Further note that these conjectures refer to different points in time: at t_1 negotiators declare initial negotiation positions. These initial offers are uncertain with regard to their domestic restrictions and therefore to their reliability: they could be overstated as well as understated. Generally, the commitment to/behind these initial offers is incomplete.[11] Whether the leverage effect of restrictive domestic constraints and potentially private informations are effectively instrumentalized can only be assessed by a) taking into account deviation and coincidence, respectively between declared initial demands and the cabinet's actual pivotal position; b) by defining the utility income of a government with regard to a representative actors' bargaining position.

Informal Conceptualization of Multilevel Negotiations during the IGC 1996

The multi-level approach in international relations has found a more general formal micro-foundation within the 'strategic approach' in international relations (cf. Milner 1997a, Bueno de Mesquita 2003). In this view, governments trade off expected costs and benefits, both at the national and the international level. At the international level, governments are confronted with other self-interested sovereign states – revealing more or less reliable their preferences and their own restrictions. Internally, governments have to take account of the electorate, interest groups, the bureaucracy, etc. The approach is compatible with (multi-attributive) decision- and game-theoretic conceptions of policy-making and therefore open to any assumptions of information endowment, organizational contexts and cost

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[10] We do not distinguish between written outcomes (contracts) and 'physical' outcomes as implied by the actual implementation of negotiation results. Cf. Hurwicz (1996). As we will show below, utilities are defined according to spatial theory of voting over ordinally arrayed options which consist, in our case, of constitutional options, i.e. they are so-called induced preferences, cf. Austen-Smith (1990 a, 1990b).

[11] For a conception of the uncertainty in negotiations as 'incomplete commitments' cf. Kambe (1999), Muthoo (1999).

structures. Due to its focus on opportunity costs[12] it is especially appropriate to model the trade-offs actors are carrying out when assessing different strategies and their respective constraints. In order to derive operational hypotheses we provide an informal conceptualization of how to conceive the multi-level decision-making character of the EU Intergovernmental Conference (IGC) 1996 leading to the Amsterdam treaty.

Sequences of the IGC 1996 negotiations

The IGC 1996 constituted another step – like Maastricht or Nice – of an institutional reform contributing to the constitutionalization of the European integration. Hitherto, EU constitution-building proceeded gradually, i.e. member states consented on voluntarily incomplete contracts. The Amsterdam conference took place from April 1996 to June 16/17 1997. The IGC 1996 had the purpose of fulfilling Political Union, of (re-)balancing the division of power, but especially of preparing the institutional setting for an EU enlargement. Already the Maastricht Treaty contained provisions for the amendment of the constitutional framework of the EU. These provisions included the date of reconvening as well as particular issues to be negotiated.

During prenegotiations within the so-called Westendorp reflection group, an intergovernmental preparation of the IGC 1996 took place from June 1995 to December 1995. This group of delegates of the member states reached an agreement on the agenda, i.e. with regard to the issues to be negotiated. The report of the Westendorp group provided a set of roughly formulated issues, i.e. it delivered broad political goals and guidelines. These global issues were processed into 30 precise issues with hard legal options by the *Service Juridique* of the Council of the European Union. Each issue included an explicit status quo with indications on its legal status. Legal options were ordinally arrayed going from the least integrationist to the most far-reaching option. This prestructuring of issues and options demonstrates the enormous institutionalization of this negotiation system.

The resulting – at that time highly confidential – notes were faxed to the foreign ministries of the member states, where the temporarily implemented units prepared the cabinets' negotiations. As a rule such temporary project management has been installed in order to coordinate the 'distributed decision-making' with regard to the proposed legal options. The project management had to strategically disseminate and aggregate information to and of the political subdivisions. Then governments sent public messages, mostly in form of declarations, to the international as well as to the intranational environment in order to signal their preferences on each of the issues.[13]

National delegations negotiated during 16 months in Brussels. They tried to find out each other's ranges of maneuver and their discretionary leeways in order to maximize their own governments'

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[12] "Opportunity costs are not out-of-pocket expenses. Rather, they are the foregone alternative uses of valuable resources" (Bueno de Mesquita 2003: 85)
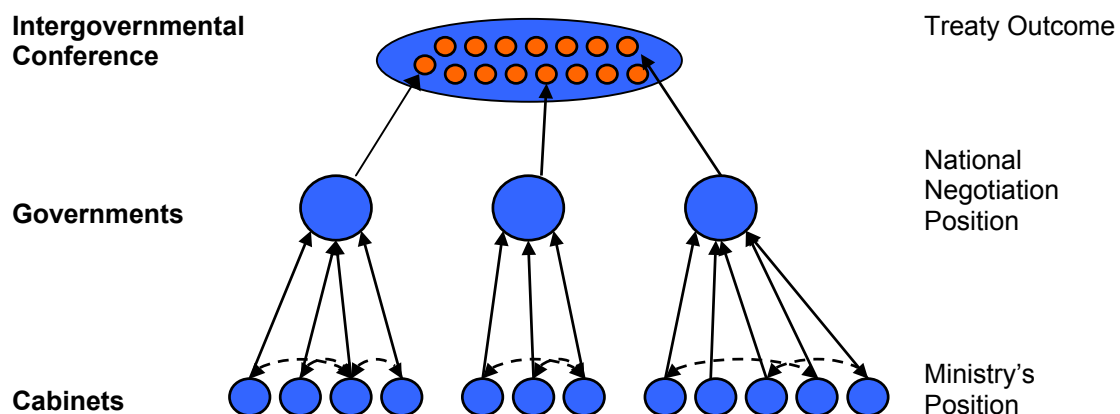
expected utility of a negotiation outcome taking into account the implied internal and intergovernmental transaction costs. Through bilateral and multilateral communication, negotiators tried to find out simultaneously their domestic as well as their external restrictions. This process led to a preliminary settlement of a part of the issues in the Dublin II report (December 1996). The final game reached its climax at the Amsterdam summit. The resulting Amsterdam Treaty was formally implemented through a ratification process under specific constitutional provisions in each member state.[14]

Levels of Negotiation

We conceive governments as maximizing expected utility – with the main objective of staying in office domestically. Acting both on the national as well as on the international level, they have to build ex-ante expectations about forthcoming international negotiations as well as about the domestic restrictions to be faced during the ratification stage. There are two reasons why we focus on the within-cabinet coordination of ministries: a) the specific chain of delegation in parliamentary governments (cf. Thurner 1998, Strøm 2000, Thurner/Stoiber 2002), and b) the quasi-monopoly of expert informations with regard to the highly abstract issues.[15]

We distinguish between the intranational game (level 2) where negotiation positions are prepared among the ministries and the cabinets' secretariats and the international game (level 1) where sovereign states are bargaining (Figure 1).

Figure 1: Specification of the two-level game

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[13] Actually, not all governments signalled a position on all issues. Hypotheses on international signaling behaviour are tested in Thurner/Kroneberg/Stoiber (2003).

[14] An exhaustive identification of formal ex-post ratification requirements as well as discretionary agenda setting powers of all involved EU member states is provided by Stoiber/Thurner (2004).

[15] Due to the highly abstract issues of constitutional building during such reform conferences, ministries have a quasi-monopoly of expertise (cf. Hayes-Renshaw/Wallace 1997).

Level 2 Game

"Any testable two-level theory of international negotiation must be rooted in a theory of domestic politics, that is, a theory about the power and preferences of the major actors at level 2" (Putnam 1988: 442).

In parliamentary systems, the leader of a government directs a team of ministers. We conceive the task of preparing external negotiation positions as a problem of coordinating distributed, specialized decision-making units, where the divisions are ministries. Relying on previous analyses (cf. Mayntz/Scharpf 1975, Scharpf 1993, Milner 1997a, Thurner/Pappi/Stoiber 2002) we consider governmental policy-making in parliamentary systems as a process of interministerial coordination where informations are finally aggregated to a collective decision. Within-cabinet preferences may differ within issue areas, because ministries represent different constituencies[16]: "divided government implies divisions not only between the legislature and the executive but also within the cabinet itself" (Milner 1997a: 40-41). Contrary to Laver/Shepsle (1996) it has been argued that the assumption of simple jurisdictions as well as of exclusive competencies is inappropriate for real world cabinets (cf. Thurner/Stoiber 2002, Thurner/Pappi/Stoiber 2002). As a rule, cabinets consist of complex jurisdictions with multiple, crosscutting and shared competencies. The sharing of competencies is even intended by strategic government leaders in order to reveal and to verify information.

Thurner/Stoiber (2002) have shown that conceiving the policy-making process as 'interministerial coordination', i.e. a process of 'negotiations under the shadow of hierarchy and majority voting, is compatible with Rubinstein-based models of sequential bargaining models of policy making (Baron/Ferejohn 1989, Baron 1994). A crucial parameter of these models is the random assignment of proposal making prerogatives.[17] McCarty (2000) relaxed some assumptions of the original Baron/Ferejohn model by permitting governmental actors to have varying combinations of shares of proposal making competences and vetoing prerogatives simultaneously.

We will go even farther by allowing these vectors of prerogatives to be a composite of multiple formal rights[18] and by allowing them to vary over issues. For each member state we assume that the involved policy-making actors have varying formal (ministerial) jurisdictional competencies with regard to homogenous groups of issues. For the valid identification of the internal pivotal position, we distinguish between four different formal competencies: a) the prerogative to make the initial proposal in an issue and to 'keep the gates more or less open'; b) competing competencies with regard to proposal writing[19]; c) competencies of the premiers of setting policy guidelines ex-ante and threatening with the termination of the government and/or with the dissolution of the legislature ex-post; d) assigned rights of managing the temporary project of the preparation of the IGC. We consider the resulting pivotal

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[16] For a discussion of the equivalent of 'divided government' in parliamentary systems, cf. Milner (1997a, especially p. 34).

[17] Where randomness expresses the distribution of power and the potential of influence.

[18] I.e. we conceive institutions as complex 'institutional arrangements', generally consisting of more than one single prescription.

[19] Other than the initiation rights, and in case of issue interdependencies and overlapping jurisdictions.

position as the collective decision of the cabinet. These decisions may have been consensual internally or they may have been contested.[20]

Level 1 Game

We argue that after an internal coordination process (cf. Thurner/Stoiber 2002, Thurner/Pappi/Stoiber 2002, Stoiber 2003) within the cabinet, governments send delegations to Level 1 negotiations. These delegations officially declare negotiation positions with respect to the issues on the agenda. Starting positions may reflect the actual governmental preference (*sincere position taking*) or may be a strategically declared position (*strategic position taking*). In the following, we assume relative informational advantages of the mandated agent representing the government externally – due to the advantageous situation as a bridge between the domestic and the international level. This does not preclude uncertainties of negotiating delegations with regard to their domestic pivots. However, at the beginning of negotiations, only publicly declared positions are assumed to be common knowledge for all member states' negotiation delegations, whereas the preferred positions of the governmental pivotal actors as well as the internal restrictions of the government are assumed to be private information of each member state and its delegation. This gives the delegations the discretion to choose their bargaining position given their strategic assessment of its domestic and international restrictions, i.e. to adopt the pivotal position or to understate or overstate positions. Recent bargaining approaches assume incomplete commitments to initially declared bargaining positions.[21]

Level 1 negotiations take place under the rule of unanimity, i.e. each member state has a formally granted right to veto modifications of the unanimously accepted status quo – implemented in previous sequences of the bargained integration process. *Failure* of multilateral negotiations is conceived as the maintenance of the legally defined and third-party enforced (ECJ) status quo. We argue that as soon as we observe international negotiations there should be at least a non-negligible demand for a collective solution because of (expected) negative externalities or because of some parties expecting cooperation/coordination benefits. The agenda of this reform conference had been jointly set up by all member states (cf. Thurner/Pappi/Stoiber 2002) during highly institutionalized prenegotiations. Therefore it is reasonable to assume that every issue on the agenda was considered as 'negotiable' and that negotiations for a transition to a new state were accepted by negotiation parties.

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[20]   Due to conflicting stances within coalition governments, but also due to special jurisdictional interests that may deviate from a re-election chance maximizing position of the government as whole.

[21]   For an overview on this literature cf. Muthoo (1999).

Formal Definitions and Hypotheses

Formal Definitions

There are n governments $i = 1,\ldots, 15$ negotiating over m issues $j = 1,\ldots, 46$, each with a finite number of options m_j. We assume issue by issue negotiations, i.e. each issue is negotiated separately. Further, we presume a spatial model (cf. Downs 1957) and suppose that decision options within issues as well as the official status quo can be arrayed on a one-dimensional line. Let $O_j =[0,1]$ be the outcome space for each issue j with $o_j \in O_j$. Define the legally defined status quo in the j-th issue $SQ_j \in O_j$ and the negotiation result in the j-th issue $AO_j \in O_j$. Assume, that each cabinet is a collective actor composed of a varying number of actors[22] $l_i = 1,\ldots, n_i$. Call the ideal point of a within-cabinet actor l of a government i on issue j $\theta_{ijl} \in O_j$ and its power[23] within the cabinet c_{ijl}.[24] We standardize c, such that

$\sum_{l=1}^{n_i} c_{ijl} = 1$ for each member state i and each issue j. Resulting from the vectors θ_{ij} and c_{ij} the weighted

median position – i.e. the pivotal position – piv_{ij} is defined as

$$piv_{ij} = \theta_{ijl^*} \mid \sum_{\substack{l=1 \\ \theta_{ijl} \leq \theta_{ijl^*}}}^{n_i} c_{ijl} > 0.5 \text{ and } \sum_{\substack{l=1 \\ \theta_{ijl} \geq \theta_{ijl^*}}}^{n_i} c_{ijl} > 0.5 \text{ }^{25}$$

The delegation publicly announces the initial ideal point of a government i in issue j $Y_{ij} \in O_j$. Governmental preferences over the outcomes can then be characterized by the following von-Neumann-Morgenstern utility function $U_i(o_j) = 1-|piv_{ij} - o_j|$. Accordingly, win sets defined over within-cabinet preferences depend on the pivotal positions:

$WS_{ij}^{cab} = [SQ_j, 2\,piv_{ij}-SQ_j] \cap [0,1]$ for $SQ_j \leq piv_{ij}$

$WS_{ij}^{cab} = [2\,piv_{ij}-SQ_j, SQ_j] \cap [0,1]$ $piv_{ij} \leq SQ_j$

On level 2 the agents do not know the internal restrictions, so they have to take seriously the nationally declared positions as the governments preferred positions. Thus, they consider

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[22]   Involved ministries, the prime minister's office and – in semi-presidential systems – the president's office.

[23]   Due to the allocation of formal participation and decision rights, cf. chapter 3.2 and 5.1.

[24]   Note that this is a modification of the model set up as proposed by McCarty (2000), since we assume a) shared and therefore interdependent competencies, and b) competencies that vary over the issues. Analogously, this conceptualization transcends the typology of fixed governmental types (Prime-ministerial government, Cabinet government etc.) of Laver/Shepsle (1994) as we allow for varying mixtures of formal competencies.

[25]   Note, that such a position need not to exist. If it does not exist, there are two positions $\theta_{ijl'}$ and $\theta_{ijl''}$ with

$\sum_{\substack{l=1 \\ \theta_{ijl} \leq \theta_{ijl'}}}^{n_i} c_{ijl} = 0.5$ and $\sum_{\substack{l=1 \\ \theta_{ijl} \geq \theta_{ijl''}}}^{n_i} c_{ijl} = 0.5$. According to the decision rule 'simple majority voting', we define

$$piv_{ij} = \begin{cases} SQ_j & \text{if } \theta_{ijl'} > SQ_j > \theta_{ijl''} \text{ or } \theta_{ijl''} > SQ_j > \theta_{ijl'} \\ \theta_{ijl'} & \text{if } \theta_{ijl''} > \theta_{ijl'} \geq SQ_j \text{ or } SQ_j \geq \theta_{ijl'} > \theta_{ijl''} \\ \theta_{ijl''} & \text{if } \theta_{ijl'} > \theta_{ijl''} \geq SQ_j \text{ or } SQ_j \geq \theta_{ijl''} > \theta_{ijl'} \end{cases}$$

$$WS_{ij}^{gov} = [SQ_j, 2\,Y_{ij}\text{-}SQ_j] \cap [0,1] \qquad\qquad \text{for } SQ_j \leq Y_{ij}$$

$$WS_{ij}^{gov} = [2\,Y_{ij}\text{-}SQ_j, SQ_j] \cap [0,1] \qquad\qquad Y_{ij} \leq SQ_j$$

to be the win set of member state i in issue j. On the international level the applied decision rule is unanimity. Therefore, formally every actor is a veto player and the international joint unanimity win sets can be determined by the intersection of all member states' win sets, i.e. $JUWS_j = \bigcap_{i=1}^{n} WS_{ij}^{gov}$. We define a $JUWS_j$ as 'trivial' if it consists only of the SQ_j ($JUWS_j = \{SQ_j\}$) and as 'non-trivial' otherwise ($JUWS_j \setminus \{SQ_j\} \neq \varnothing$).

Operational Hypotheses

Putnam provides several hypotheses as to the relationship between selected determinants and win set size. He expects a governmental win set to be the larger, the larger the domestic incidence of costs of no international agreement. The size of the win set is expected to be the smaller the greater the relative power of isolationists refusing international cooperation. Promises and threats are expected to enhance or shrink the win set size, respectively. In the following we translate several of his hypotheses into operational, testable hypotheses with regard to the relationship between domestic constellations, interstate constellations and the outcome (Failure/Success and member states' utility).

Conjecture 1

Hypothesis 1: Joint International Win Set Size

Putnam argued that the larger the joint international unanimity win set, the more likely the actors succeed in overcoming the status quo. Contrary to Putnam, we expect no clear positive relationship between joint international unanimity win set size and successful negotiations. Coordination problems of choosing agreement points within the Pareto set or the negotiation set[26], and incomplete commitments may run counter to the postulated relationship (**Joint Win Set)**.

Hypothesis 2: Degree of International Conflict

In accordance with transaction costs reasoning we expect the risk of a failure to be the higher the higher the degree of conflict at level 1 **(International Conflict)**.

Hypothesis 3: **Divided Government I**

There are rival statements as to whether divided government has a positive or negative impact, respectively, on international cooperation. Putnam[27] expects the propensity of a success to be the higher the larger the degree of the governmental heterogeneity within member states – however at the expense of an additional assumption of transgovernmental and transnational coalition building processes. In accordance with the conclusions of the more parsimonious model (without coalitions) of

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[26] Here we rely on the argument as put forward by Tsebelis (2002).

[27] See already Keohane/Nye (1974), cf. Raiffa (1982: 12): „the more diffuse the positions are within each side, the easier it might be to achieve external agreement".

Milner (1997a: 97)[28] we formulate the following hypothesis: The more divided the cabinets, the lower the chance of international cooperation (**Divided Government I**). [29]

Hypothesis 4: **Coercive Coalitions**
Putnam admittedly limits his presentation to two-player constellations. In line with (Neo-)Realism we simply expect the chance of a successful agreement to increase, the higher the number of EU member states demanding the transition of the status quo – even in the absence of intergovernmental consensus **(Coercive Coalitions)**.

Conjecture 2

Hypothesis 5: **Leverage Bargaining**
Following Putnam's conjecture 2 we expect that the smaller the domestic win set the higher the utility a member state extracts **(Leverage Bargaining)**.

Hypothesis 6: **Aligned Preferences** / **Divided Government II**
Following arguments as put forward by Putnam (1988) and Mo (1995), aligned preferences within a cabinet should be highly credible/reliable whereas divided government should have a negative effect on the utility income. Therefore, we expect the utility income of a government to be the lower, the higher the within-cabinet heterogeneity of preferences **(Aligned Preferences** / **Divided Government II)**.

Hypothesis 7: **Overstating Domestic Restrictions** / **Coincidence of Preferences of the Cabinet Pivot and the Declared Negotiation Position**
Does overstating the within-cabinet restrictions (**Overstating**) pay out for the cabinet pivot? We argue that benefits of overstating are conditional on the credibility of an announced position. More specifically, we expect that 'exaggeration' is valuable only as long as there is an alignment of within-cabinet preferences (**Overstating*Cabinet Alignment**). Analogously, the coincidence of cabinet position and announced governmental ideal point (**Coincidence**) is assumed to reflect an even more credible commitment to a negotiation position conditional on cabinet alignment and should exhibit a positive effect on the utility income of member states (**Coincidence*Cabinet Alignment**).

Hypothesis 8: **Ratification Requirements**[30]
According to the literature on two-level games, ratification requirements constitute *the* crucial domestic constraint. However, due to anticipation (Milner 1997a), and due to varying flexibilities of governments to choose ratification requirements strategically as well as due to the non-existence of line-item vetoes

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[28] "…as divisions grow, the problems of the executive mount. She will have a harder time getting any agreement ratified….." Milner (1997a: 97).

[29] The average is used because the argument is on the level of issues, not actors!

[30] Following agency based approaches we argue that in parliamentary systems, it is the leader of the cabinet, the cabinet and the ministers as responsible, and anticipating producers of policies that have the most important impact on the of mannheional negotiations and their outcomes. The anticipation of ratifiers' preferences by agenda setters may result into an optimal ex-ante position taking by the government. Therefore insights as produced by approaches focusing exclusively on the ex-post ratification process may lead to erroneous conclusions. See also Milner (1997a: 74).

in ratifying international package agreements (cf. Stoiber/Thurner 2004), we expect no direct impact of ex-post ratification requirements (**Ratification)**.

Hypothesis 9: **Power Bargaining**

According to intergovernmentalist arguments (Moravcsik 1998) we expect powerful countries to receive higher benefits (**Power)**.

Hypothesis 10: **Conditionality of the Effect of Win Set Size**

Rational negotiators take into account the value of the status quo.[31] Therefore, we argue that the value of win set size is conditional on the transition of the status quo **(Conditionality)**.

Empirical Results

Data Collection and Operationalization[32]

Data collection combines analysis of documents and standardized interviews of top-level bureaucrats[33] in EU member states. The survey is centered around 30 documents, so called fiches, (CONF 3801/96 to CONF 3830/96) as prepared by top lawyers of the Council's *Service Juridique*. The explicit objective of the Council's secretariat was to prestructure the issues at the table in a Harvard decision-making style (Keeney/Raiffa 1976).[34] We conceive the resulting documents as constituting the actual multi-dimensional issue space. Conclusions of the prenegotiations of the Westendorp group were translated into precise, ordinally arrayed options – including the status quo and its legal implications - which were compatible with EU law.[35] Therefore it was rather easy to construct a standardized questionnaire, since we avoided the enormous problems of validly coding so many European Law options by ourselves. The questionnaire consists of 46 negotiation issues as listed in appendix 1.[36] Each of these issues is considered to constitute a one-dimensional negotiation space with ordinally arrayed options. As a rule, we kept the order of options as proposed by the *Service Juridique*.

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[31] More generally: the value of the state of no agreement.

[32] A synopsis of formal definitions of the variables used in the statistical analysis can be found in appendix 2.

[33] For a comprehensive introduction to this data set, cf. Thurner/Pappi/Stoiber (2002). For preceding studies on bureaucratic elites focusing rather on the socio-economic and ideological backgrounds, cf. Aberbach/Putnam/Rockman (1981) and Page (1999). Contrary to these studies, we rely mainly on standardized questionnaires, and we focus on negotiation preferences, organizational resource endowments and strategic coalition building -within the cabinet as well as transgovernmentally.

[34] Personal communication of the administrative head of the Council's cabinet at that time.

[35] And, as we argue in our analyses, are also compatible with the concept of Euclidean preferences of spatial theory of voting.

[36] Several notes consisted of more than one issue. Contrary, issues of minor importance, e.g. the organizational reform of the ECJ, that have not been discussed at all, where discarded.

For the identification of the initially announced negotiation positions several exhaustive synopses[37] of official declarations were used and mapped onto the standardized questionnaires. This enables us to reconstruct the spatial conflict constellations of this Intergovernmental Conference 1996. Next, member states' formal organization structures of European policy-making and of the preparation of the IGC 1996 were reconstructed in order to identify issue-relevant top-level bureaucrats. Based on the Council's secretariat official list of delegation, heads of all 15 delegations were contacted and asked to name those ministries and respective staff actively involved[38] in the preparation of IGC 1996 negotiation positions. Interviews with responsible bureaucrats inside involved ministries were arranged in the European capitals as well as in Brussels. Interviewed bureaucrats had to render – among other informations – the most preferred option of their ministry for each single issue.

Operationalizing the actual influence resources of members of the cabinet on the bargaining position in each issue (cf. Thurner/Stoiber 2002, Thurner/Pappi/Stoiber 2002, Stoiber 2003), we distinguish five criteria: a) involvement (no =: 0; yes =: 1); b) the ministerial prerogative to make the initial proposal in an issue and to keep the gates more or less open (no =: 0, weak =: 1, strong =: 2)[39]; b) competing ministerial competencies in case of issue interdependencies and overlapping jurisdictions - other than the initiation rights (yes =: 1, no =: 0), and; c) premiers' competencies of setting policy guidelines ex-ante and threatening with the termination of the government and/or with the dissolution of the legislature ex-post (no =: 0, shared =: 1, exclusive =: 2); d) whether there was a temporary project management, its departmental location and it's assigned coordination rights (0 := no project management; 1 := pure coordination tasks (information transmission and aggregation); 2 := right to settle conflicts between involved departments; 3 := right to set guide lines for the preparation of a joint bargaining position; 4 := competence of final decision-making).[40] Following Stoiber (2003: 150-151) who proposes an index which calculates the issue-specific endowment of an actor with these multiple resources, we determine the respective weighed median position for each issue as outlined in chapter 4.1.

The *Degree of International Conflict* (dic) is defined as the standard deviation of the nationally declared positions:

$$dic_j = \sqrt{\frac{\sum_{i=1}^{n}(Y_{ij} - \bar{Y}_j)^2}{n}}$$

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[37] Cf. Piepenschneider (1996), Griller et al. (1996) as well as the report of the European Parliament and the CD-documented synopsis of Weidenfeld (1998).

[38] Note that 'actively involved' was defined as 'delivering written proposals'.

[39] Cf. Stoiber (2003: 150) for this classification relying on Laver/Shepsle (1994). The ministerial prerogative is considered to be strong in case of its explicit foundation in the constitution and strong relations particular interests. It is considered weak if only one of these criteria applies.

[40] Cf. Stoiber (2003: 68) for this classification.

Divided government is operationalized as the *Degree of Domestic Conflict* (ddc):

$$ddc_{ij} = \sqrt{\frac{\sum_{l=1}^{n_i}(\theta_{ijl} - \bar{\theta}_{ij})^2}{n_i}}$$

Whereas this measure can be directly used for the assessment of the actor-specific impact on the distribution of benefits in every issue, for the testing of the issue-specific impact on *Success/Failure*, we had to build issue-specific averages over member states.

Coercive Coalitions (Hypothesis 4) are operationalized via the cumulated power of those member states who wanted to overcome the status quo towards more integration. Formally, this is

$$\sum_{\substack{i=1 \\ Y_{ij}>SQ_j}}^{n} c_{ji} \cdot {}^{[41]}$$

Win Set Size of the cabinet (Hypothesis 5) is measured as formally defined in chapter 4.1 (WS^{cab}). However, this conjecture makes only sense by considering the *Relative Win Set Size* of the cabinets:

$$WS_{ij}^{cab}{}_{rel} = \frac{WS_{ij}^{cab}}{\sum_{k=1}^{n}\frac{WS_{kj}^{cab}}{n}}$$

Aligned Preferences (Hypothesis 6) are dummy coded and correspond to a *Divided Government* with degree zero. For the testing of Hypothesis 7 we relate the nationally declared negotiation position Y_{ij} and the within-cabinet positions θ_{ij} and the within-cabinet pivot piv_{ij}, respectively. We distinguish the following discrete constellation (Table 1):

Table 1: The Relationship between Nationally Declared Position and Domestic Restrictions

Category	Relation Y_{ij} and piv_{ij}	Relation Y_{ij} and WS_{ij}^{cab}
1	$Y_{ij} < piv_{ij}$	$Y_{ij} \in WS_{ij}^{cab}$
2	$Y_{ij} = piv_{ij}$	$Y_{ij} \in WS_{ij}^{cab}$
3	$Y_{ij} > piv_{ij}$	$Y_{ij} \in WS_{ij}^{cab}$
4	$Y_{ij} > piv_{ij}$	$Y_{ij} \notin WS_{ij}^{cab}$
5	A pivotal player exists, no Y_{ij} was declared	-
99	Missing data (no Y_{ij} ,no piv_{ij})	-

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[41] According to the unanimity rule we assume every member state to hold the same power internationally, such that $c_{ji} = 1/n$.

Restrictions are said to be *Overstated*, when the pivotal position is actually less restrictive than the position declared by the agent, i.e. category 1. *Coincidence* of pivotal position and declared position is obviously category 2. To test Hypothesis 8, we differentiate between the following ratification requirements: *Supermajorities Required*, *Referendum Probable*, *Ratification Leeways of the Government* in choosing a ratification procedure (cf. Stoiber/Thurner 2000 and Stoiber/Thurner 2003).[42] The respective variables are dummy-coded.

Hypothesis 9 is dummy-coded, too, by classifying the EU member states in *Large Countries* (Germany, France, Great Britain, Italy and Spain) and small countries (all others) according to whether they have two commissioners or one.

Last but not least we will identify the revealed willingness-to-pay for the transition of a legally enforced status quo (Hypothesis 10). We propose to measure the aggregate revealed willingness-to-pay by including a dummy variable (*Success*) which specifies whether was a transition of the status quo (=:1) or not (=:0). As governments trade-off between the expected utility of a failure of negotiations and the expected utility of leverage bargaining per se we control for the specific effect of win set size in those situations. We include a variable measuring the interaction of a transition of the status quo and the size of the win set (*Success*Win Set Size*) in the respective issues. According to sequential bargaining models, rational governments first choose whether to contribute to a success of the negotiations and then they choose the minimum level of utility losses/costs they accept.

International joint unanimity win sets and the Amsterdam Outcome

Conjecture 1 says that the larger the international *Joint Unanimity Win Set Size* the higher the chance of a successful agreement. Descriptively, the first question to be answered is: Are there non-trivial international joint win sets – if yes – how is the size of them? Counterfactually one could further ask: In case of international joint win sets: Is there always a *Success*? Vice versa: in case of no international joint win sets: Is there always a *Failure*? Following our assumption of domestic private information we constructed joint international win sets over declared initial negotiation positions at t_1. Small sample size does not allow to use maximum likelihood based logistic regression. For the statistical test whether the existence of a non-trivial international joint win set has a positive effect on the risk of a failure or success of negotiations, respectively, we rely on a 2×2 contingency table and the

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[42] Supermajorities are required in: Finland, Austria, Germany, France, Greece, Luxembourg, Sweden, Denmark (cf. Stoiber/Thurner 2000: 32, Table 3). We recoded a referendum as probable for Ireland, Denmark (referenda have actually been used) France, Portugal (there was a discussion whether to use it), GB, Austria, Finland, and Spain and Sweden (in these countries there have been previously referenda with regard to the European integration/association). (Stoiber/Thurner 2000: 35, Table 5). Ratification requirements, too, can be considered as private information of governments due to – as long as they exist – their discretionary leeway of choosing a specific ratification procedure (cf. Stoiber/Thurner 2003: Table 1). Stoiber/Thurner (2003) identified the varying degrees of discretionary leeways and proposed an index along the criteria whether governments have the power of choosing to involve ratifying actors in the subsequent ratification sequences or of setting the majority requirements for subsequent ratifying actors. Simplifying the analysis we constructed a dummy variable *Ratification Leeway* where there is a leeway (=1), zero otherwise.

terminology of epidemiology and cohort study data with equal follow-up time per subject.[43] In our study, subjects are negotiation issues. Risk is defined as the proportion of issues becoming failed issues. The columns reflect the exposure to a risk factor – as formulated in our proposed hypotheses. Column 2 of Table 2 presents the joint distributions of the existence of a non-trivial win set and the success of an issue.

Table 2: Determinants of *Success*

Success	*JUWS*		*International Conflict*		*Divided Government*		*Coercive Coalitions*	
Group	*No*	*Yes*	*low*	*high*	*low*	*high*	*low*	*high*
Maintenance of SQ	8 (24.2%)	4 (30.8%)	6 (28.6%)	6 (24%)	9 (37.5%)	3 (13.6%)	10 (45.5%)	2 (8.3%)
Transition of SQ	25 (75.8%)	9 (69.2%)	15 (71.4%)	19 (76%)	15 (62.5%)	19 (86.4%)	12 (54.5%)	22 (91.7%)
Total	33	13	21	25	24	22	22	24
Risk Diff.	-0.0653		0.0457		0.2386		0.3712	
Risk Ratio	0.9138		1.0640		1.3818		1.6806	
Fisher's test, P (2-sided)	0.7165		0.7486		0.0958		0.0065	

There are 13 non-trivial joint win sets. In 33 out of 46 issues non-trivial win sets did not exist at t_1. Nevertheless, the negotiators reached a *Success* in 75.8% of these issues, i.e. we finally observe a successful agreement despite no initial intersections, and contrary we observe issues with final failure despite initial intersections. Since there are successful issues without a non-trivial win set as well as issues with non-trivial win sets that failed, we conclude that the existence of a non-trivial win set is neither sufficient nor necessary for *Success*. Accordingly, Fischer's two-sided exact test[44] yields that there is no association between risk exposure and failed issues: the existence of a joint international win set does not reduce the risk of a failure of negotiations. The variables *Degree of International Conflict* (H2), *Divided Government* (H3) and *Coercive Coalitions* (H4) were dichotomized into categories 'high' and 'low' along the mean of the distributions. Only the cumulated pressure of member states (*Coercive Coalitions*) to overcome the status quo, and – if one accepts a 10% two-sided level – the degree of *Divided Government* significantly reduce the risk of a failure of negotiations. Whereas in the case of *Coercive Coalitions* our expectations are fulfilled, the hypothesis on the impact of *Divided Government* is refuted – thereby corroborating the original conjectures of Schelling and Putnam, and contradicting the more parsimonious model of Milner (1997a).

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[43] Calculations are based on the Stata 8.0 ado epitab.

[44] Fisher's test is a permutation-based test especially appropriate for small sample sizes. It yields the probability of obtaining a table that provides as least as much evidence of association as the one observed under the assumption of no association, cf. Good (2000: 94-98).

As a first major result we emphasize that, neither the existence, nor – as a consequence – the size of international joint win sets systematically predicts the success of the negotiations. There are several negotiation issues[45], where there is no joint win set at the beginning, nevertheless member states succeeded in transgressing the status quo. We interpret this as a forceful validation of the assumption of the existence of incomplete information and commitments. However, the test of our additional hypothesis on the implications of the *Degree of International Conflict* is refuted: A higher *Degree of International Conflict* does not necessarily increase the risk of a *Failure*. Obviously, intergovernmental consensus is not a necessary condition for a transition of the status quo: The higher the cumulated power of a demand for a new status quo, the higher the chance of agreements. We attribute this clear contradiction of the unanimity rule to the fact that negotiators vetoing openly a transition of a status quo that is perceived as disadvantageous by a relevant number of actors do incur costs – reputation costs.[46] Analogously, the degree of *Divided Government* has a significantly positive impact on the solution of international conflicts: Successfully negotiated issues exhibit a higher degree of within-cabinet conflict thereby quantitatively corroborating conjectures as put forward by numerous authors and negotiators (Keohane/Nye 1974, Raiffa 1982) and refuting propositions as derived by Milner (1997a).

Leverage Bargaining: The comparative impact of domestic and international constraints

Conjecture 2 states that governments with a small win set, i.e. highly restrictive domestic conditions, should get higher utilities from the negotiation outcome, because restrictive domestic conditions constitute bargaining power (Schelling 1960). Follow-up studies (Iida 1993a,b, Mo 1994, 1995) have pointed to the fact that the conjecture holds only conditional on the credibility of the threats and promises of governmental signals in the international arena. As the empirical test of conjecture 1 has shown, declared commitments have obviously been not sustainable. For the testing of conjecture 2 we constructed a data set where each combination of a member state and an issue constitutes a case (N = 15*46 = 690). First, we assess the *Credibility* of declared positions by providing a descriptive overview of typical locations of the initially declared national starting position vis-à-vis the cabinet pivot positions for all member states and issues.

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[45] For example issues 2.2, 2.3, 2.5 and 2.6, concerning the CFSP.

[46] Vice versa, there are structural incentives to use the veto only during negotiation processes. Negotiation parties may use the threat of a veto in several issues as a leverage for gaining more in other issues. Contrary, member states may take highly integrationist stances in extract at least marginal concessions by non-integrationist member states.

Table 3: Typical locations of the national starting position with regard to the governmental pivot by member states

Actor	1	2	3	4	5	99	1-3	4	5;99
Belgium	0.043	0.217	0.174	0.370	0.087	0.109	0.434	0.370	0.196
Germany	0.109	0.348	0.217	0.152	0.174	0	0.674	0.152	0.174
Denmark	0.087	0.261	0.065	0.130	0.457	0	0.413	0.130	0.457
France	0.065	0.391	0.065	0.130	0.304	0.044	0.521	0.130	0.348
Finland	0.174	0.304	0.261	0.065	0.130	0.065	0.739	0.065	0.195
Great Br.	0.022	0.522	0.043	0.109	0.261	0.043	0.587	0.109	0.304
Greece	0.152	0.283	0.174	0.087	0.109	0.196	0.609	0.087	0.305
Italy	0.152	0.500	0.109	0.022	0.152	0.065	0.761	0.022	0.217
Ireland	0.065	0.348	0.109	0.109	0.239	0.130	0.522	0.109	0.369
Luxemb.	0.239	0.174	0.261	0.043	0.217	0.065	0.674	0.043	0.282
Netherl.	0.152	0.261	0.196	0.130	0.130	0.130	0.609	0.130	0.260
Austria	0.130	0.196	0.217	0.283	0.174	0	0.543	0.283	0.174
Portugal	0.304	0.239	0.087	0.087	0.239	0.044	0.630	0.087	0.283
Spain	0.109	0.370	0.196	0.152	0.130	0.044	0.675	0.152	0.174
Sweden	0.087	0.196	0.174	0.174	0.261	0.109	0.457	0.174	0.370
Σ	0.126	0.307	0.157	0.136	0.204	0.069	0.59	0.136	0.273

Note that in 37 percent of the issues, Belgium takes a position that lies outside its governmental win set (Category 4) as defined by its cabinet pivot. Member states frequently promising more than the power weighted cabinet pivot position are, e.g., Belgium (17.4 % and 37 % of the issues), Germany (21.7 % and 15.2 % of the issues) and Austria (21.7 % and 28.3 % of the issues). Contrary, the first offers declared by the British government are obviously concentrated at the position of the cabinet pivot. Portugal and Luxembourg exhibit the highest rates of cases, where the internationally declared starting positions overstate governmental restrictions. Denmark, Great Britain, France and Sweden show up high rates of declaring no starting position at the beginning of the negotiations.[47]

For the testing of the proposed hypotheses we use a regression modelling approach. The dependent variable is represented by the *Utility* income of the respective governmental power-weighted majority pivot in each issue. We add variables step-by step in order to sensitize for the impact of controlling for third-variables. Version 1 tests whether *Relative Win Set Size* has the expected effect on the *Utility* income. According to Putnam one should expect that *Utility* income decreases with increasing *Relative Win Set Size*. Results of a simple OLS-regression[48] show that there is no such relationship. Second,

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[47] It is also enlightening to analyze the issue-specific distribution of these location patterns. Here, again, the coincidence between pivotal bliss point and declared national starting position is prevailing. Exceptions are especially issues 2.4 (financing the CFSP), 3.4 (JHA: democratic control) and 5.10 (power of the economic and social committee) with very broad whiskers indicating many member states take deviating positions. Contrary, issues like 3.5 (JHA: judicial control within JHA), 4.3 (decision-making in the council: unanimity and QMV), 4.4 (decision-making in the council: QMV-threshold) and 4.5 (decision-making in the council: weighting of votes in the case of enlargement) exhibit the opposite tendency, i.e. declared position cluster around the pivotal position. A complete table as well as box plots can be delivered on request.

[48] Here and in the following, we use Huber/White sandwich estimates of standard errors (Huber 1967, White 1980). These variance estimates are robust in providing consistent coefficients with correct coverage ranges even in case of violations of the homoscedasticity assumption. Accounting for possible within-cluster

we examine whether the transition of the status quo is generally profitable for domestic cabinet pivots, thereby determining statistically the aggregate costs of a maintenance of the status quo, or vice versa: determining the aggregate value of the transition of the status quo (Version 2). Controlling for these issue-specific values/costs may even elicit the partial effect of the *Relative Win Set Size*.[49] This is not the case according to the estimated model: *Relative Win Set Size* and *Success* are not related.[50] Using a treatment effects model (Cong/Drukker 2000, Greene 2003: 787)[51], we simultaneously control for the possible endogeneity of the independent variable transition on the proposed hypotheses in the context of conjecture 1: Member states valuation of the status quo and their strategic declaration of initial bargaining positions[52] may be connected thereby indicating the statistical problem of self-selection. Analogously to Hamada/Kawai (1997) and Murdoch/Sandler/Vijverberg (2003) we argued that rational actors first choose whether to contribute to a *Success* of the negotiations and then they choose the minimum level of utility losses they accept. In statistical terms this would imply a correlation of the error terms of both equations. Therefore, we specify all variables introduced in the previous chapter on conjecture 1 as exogenous covariates in the treatment equation. However, a test on endogeneity of the transition of the status quo by regressing it on the first group of variables specific to conjecture 1 clearly rejects this hypothesis – here as in all of the following versions: According to a Wald test on independent equations, the null hypothesis that the error terms are uncorrelated (rho=0) cannot be rejected. Therefore, we conclude that the value of the status quo is estimated without endogenous bias. With regard to model version 2 this is irrelevant, as the effect of transition is insignificant and the overall explanatory power of the model is *quantité négligable*.

Version 3 replaces *Relative Win Set Size* by the proposed ratification criteria. The results corroborate our expectations – mainly based on arguments of Milner (1997a), that due to anticipating politicians, ex-post ratification requirements should exhibit – as a rule[53] – no ex-post impact of their own.

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correlations we control for dependencies of member states' position-taking (cf. Williams 2000, for an application cf. Thurner/Kroneberg/Stoiber (2003).

[49] Cf. Fox (1997: 136ff).

[50] The motivation for including the qualitative independent variable transition is essentially to avoid a potentially biased assessment of relative win set size on utility income. Coefficients for dummy regressors gives the difference intercepts for the two regression lines. Because these regression lines are parallel, the coefficient could be interpreted as the expected income advantage accruing to a member state when relative win set size is held constant. If small relative win set size would be only favoring in case of successful issues, then the coefficient would be negative: the larger the relative win set size the smaller the utility income. The constant would give the intercept for failed issues, for whom the dummy regressor would be zero, and the estimated coefficient for relative win set size would be the common slope applying to all issues.

[51] Complementary, we have also used two-limit tobit regression (Rosett/Nelson 1975, Maddala 1993: 161 ff, Long 1997: 212, Greene 2003: 764 ff, Wooldridge 2000: 540 ff), ordered logistic regression (cf. Long 1997: 114-147), quantile regression and robust regression (cf. Fox 1997). Results lead to the same conclusion that we present. Output and routines can be delivered on request.

[52] Thereby determining their *Win Set Size*.

[53] This does not preclude 'erring' politicians, as to be seen in the case of the Maastricht Treaty.

Table 4: Determinants of the Utility of the Domestic Governmental Pivot

	Version 1	*Version 2*	*Version 3*	*Version 4*	*Version 5*
Utility of Cabinet Pivot					
Win Set Size	0.006 (0.34)	0.019 (0.37)		-0.172* (-6.03)	-0.161* (-5.69)
Success*Win Set Size				0.328* (8.14)	0.323* (7.89)
Divided Government					-0.336* (-2.99)
Cabinet Alignment					-0.090* (-3.11)
Overstating Cabinet Restrictions					0.019 (0.48)
Coincidence of Pivot and Declared Initial Positions					0.007 (0.23)
Overstating*Cabinet Alignment					-0.159* (-2.18)
Coincidence*Cabinet Alignment					0.019 (0.46)
Supermajority Required for Ratification			0.035 (1.32)		0.004 (0.28)
Ratification Leeway of Government			0.031 (1.12)		0.002 (0.15)
Referenda Probable			-0.007 (-0.22)		0.021 (1.13)
Large Member State					-0.069* (-5.08)
Success		-0.049 (-0.64)	-0.050 (-0.64)	-0.361* (-5.32)	-0.395* (-6.10)
Constant	0.673	0.710	0.688	0.873	0.983
Success					
Joint Win Set Size		-0.504* (-5.47)	-0.503* (-5.34)	-0.504* (-6.29)	-0.464* (-5.71)
Power Bargaining		1.934* (32.20)	1.934* (31.70)	1.936* (35.94)	1.911* (32.48)
International Conflict		-3.462* (-10.63)	-3.458* (-10.00)	-3.466* (-13.74)	-3.265* (-13.36)
Divided Government (Averaged)		5.754* (18.76)	5.757* (17.46)	5.742* (17.90)	5.933* (18.76)
Constant		0.039	0.038	0.041	-0.026
Rho		-0.013	-0.011	-0.015	0.071
Wald chi^2 of Rho, Prob		0.914	0.932	0.877	0.440
Overall Wald chi^2, Prob		0.43	3.24	74.33	125.68
N	642	642	642	642	642

Version 4 investigates whether the impact of *Relative Win Set Size* is conditional on the transition of the status quo, i.e. we hypothesize that the effect of *Relative Win Set Size* varies with respect to the different states transition and non-transition of the status quo, respectively and vice versa that the effect of transition /non- transition varies by *Relative Win Set Size*. Statistically, the hypothesis of *Conditionality* can be tested via interaction effects[54], i.e. we calculate products of the dummy regressor transition and the quantitative variable *Relative Win Set Size*. It turns out that the explanatory power of the model increases rapidly, and all coefficients become significantly different from zero. Substantially, this means that we have different values of *Relative Win Set Size* in the different categories transition and non-transition.[55] However, the transition coefficient is no longer interpretable as the unqualified *Utility* income difference between successful negotiated and failed issues (cf. Fox 1997: 148): The separation between the regression lines is now variable, the coefficient is simply the separation where *Relative Win Set Size* is zero. As the coefficient is negative we conclude that member states with a *Relative Win Set Size* of zero incur utility income losses in case of a transition of the status quo. Likewise, in the interaction model, the coefficient of relative win set size is not the unqualified partial effect of *Win Set Size*, but rather the effect of win set size among failed issues. Although this coefficient is of interest, it is not necessarily more important than the effect of win set size among successfully negotiated issues, which does not appear directly in the model (cf. Fox 1997: 148). Further note that the largeness of the *Joint International Win Set Size* as well as the *Degree of International Conflict* in an issues negatively influences the transition. Both effects become significantly different from zero in the simultaneously estimated model. Variables *Coercive Government* as well as the *Average Degree of Cabinet Conflict* exhibit the already identified positive effect on transition of the status quo in an issue. Nevertheless, again, both equations are not connected.

A full model containing all hypotheses is estimated in version 5. This model preserves the pattern of results of the variables as interpreted hitherto. We further specified the variables specific to information asymmetries. In order to get a final answer to the question whether restrictive initial offers (as declared by the governments) have been favorable to the cabinet pivot, we take into account the specific locational relationship between externally signalled position and private cabinet position. More concretely: Has it paid for a member state to *overstate* its domestic restriction in an issue? The coefficient of *Overstating* clearly refutes this hypothesis. We hypothesized that *Overstating* domestic restrictions as well as declaring bargaining positions that *coincide* with the cabinet pivot[56] should have a favorable impact on the *Utility* income of the member states. Again we restrict the interpretation to

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[54] "Two variables are said to interact in determing a dependent variable when the partial effect of one depends on the value of the other" (Fox 1997: 145), and "Interaction refers to the manner in which independent variables combine to affect a dependent variable, not to the relationship between the independent variables themselves" (Fox 1997: 146).

[55] "In general, we neither test nor interpret the main effects of independent variables that interact" (Fox 1997: 148).

[56] As compared to understating domestic restriction or not declaring at all.

the main effects.[57] Both hypotheses are rejected. Quite the contrary, having overstated *Aligned Positions* even significantly reduced the *Utility* income of member states. *Overstating* in case of domestically aligned ministries even leads to a decrease of the pivot's *Utility*, i.e. even these highly credible overstatements of domestic restrictions have not favored the member states – quite the contrary: these states had to concede at the end. The reason behind this counterintuitive result is obviously the fact that a) the negotiation process revealed actual domestic restrictions; and b) despite the official unanimity rule in this intergovernmental negotiations, *Coercive Coalitions* forced hesitating member states to go even farther than their cabinet pivots. Another interpretation would be that the cooperative elements of compromising and their highly institutionalized embedding made these *Utility* losses acceptable to the cabinet pivots.

Whereas within-cabinet conflict favors a transition of the status quo – as we have seen in the previous section – it disfavors at the same time the domestic pivot's *Utility* income: *Divided Cabinet*, despite favoring international agreements is detrimental to the pivot's *Utility* income. The next block of variables specifies different ratification criteria. As already outlined, we expect no systematic relationship between these institutional features and *Utility* income: The anticipation capacities and agenda setting power of proposal makers are expected to absorb the effect of ex-post veto players. Furthermore, ex-post blocking power is considered to be negligible in ratification processes due to the absence of line-item vetoes. Actually, *Ratification Requirements* remain irrelevant in the full model.

The last variable tests the hypothesis whether pivots of *Large Member States* are able to extract more *Utility* than small ones. Exactly the opposite applies: Large countries are exploited by the small ones. We interpret this as indicating the 'exploitation of the large' as suggested by Olson (1965). Like the original idea, this is a counterintuitive result that sheds some doubts on neoliberal intergovernmentalism (Moravcsik 1999) as well as public debate. Before and during the conference, large countries complained in searching for a new balance of voting power within the council of ministers. The asymmetries of contribution of large member states to the common budget and in allocation of voting power, has increasingly led to an explicit dissatisfaction of large member states. The IGC 1996 was a first attempt to correct for these biases, however failed until the days of the convention.

Comparing the relative impact of domestic and international determinants, it turns out that the interaction effect of *Success* and *Relative Win Set Size* and the effect of *Divided Government* are the most important factors (Version 5). They have nearly identical weights. Further taking into account the effect of the dummy variable *Large Member State* in an additive way, international considerations seem to have had a greater influence on the distribution of benefits. With regard to the determinants leading to a transition of the status quo (*Success*, cf. Version 5), within-cabinet conflict is clearly the single outstanding factor. Nevertheless, international considerations like the exercise of *Power* and the

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[57] Due to space limitation we do not present main-effects-only estimation. Overstating and declaring coincident position lead to insignificant coefficients. Cabinet alignment significantly influences the utility income – in a negative way. Results are delivered on request.

Degree of International Conflict have influenced the *Success/Failure* of the negotiations in a statistically significant way.

Conclusion

In our empirically-oriented paper, we relied on assumptional refinements of the influential conjectures of Putnam (1988). Follow-up analyses accentuated domestic uncertainty. We presented selected operational hypotheses and examined them with new data on a complex multi-actor, multi-issue, multi-level negotiation system. A main result is that neither the existence nor the size of joint international unanimity win sets is a sufficient or a necessary condition for successful negotiations. Conjecture 1 had been refuted by our data: At least in multilateral settings, it seems that power coalitions that force dissenting member states – although those are formally vested with veto power – are more important to overcome the status quo. Furthermore, intragovernmental conflicts seem to favor the transgression of international deadlock situations. Conjecture 2 is refuted, too: There is no simple positive impact of domestic restrictions, but a conditional effect that interacts with the issue-specific value of a transition of the common, institutionally guaranteed status quo. Member states with a relative win set size of zero had even to incur costs in case of a transition – indicating their revealed willingness-to-pay for a formal agreement. We attribute both results to the highly institutionalized setting. Nevertheless, member states tried to exploit information asymmetries. But even in the case of intragovernmental alignment the overstatement of restrictions was a detriment to the governmental pivot's utility.

Our research design allows new insights into the processes and dynamics of international negotiations. The main result of our study is that negotiations have to be conceived as complex processes. The conjectures of Putnam are static. The choices of initial position taking and willingness-to-pay may not be systematically connected. A further message of our empirical application of Putnam's conjectures is that conjectures and even more so formally derived propositions are true only under very restrictive additional conditions. In order to apply and to test them, the researcher has to make clear how she translates propositions into testable model specifications. Formal modelers often take their assumption for granted and believe their clinical aseptic model set up to be reality. As soon as we try to test propositions empirically we have to recognize that the assumptions behind have to be controlled for as further variables. These variables may even interact with the proper variables of the propositions leading to completely new insights. Therefore, we conclude with a plea for the empirical testing of formal theories.

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Appendices

Appendix 1: List of One-dimensional Negotiation Issues as Included in the Standardized Questionnaire

Issue	Subject	Issue	Subject
1.1	Citizenship of the Union	4.3	Decision-making in the Council: Unanimity and QMV
1.2	Procedure for adding Art. 8 (citizenship) without revision of the Treaty	4.4	Decision-making in the Council: QMV-Threshold
1.3	Introducing fundamental rights to the Treaty	4.5	Decision-making in the Council: Weighting of votes in the case of enlargement
1.4	Monitoring observance of fundamental rights	4.6	Decision-making in the Council: Dual majorities
1.5	Principle of subsidiarity	4.7	Composition of the Commission
1.6	Review of compliance with the principle of subsidiarity	4.8	Enhanced cooperation: Introducing flexibility
1.7	Transparency: opening up the Council's proceedings	4.9	Enhanced cooperation: Conditions for flexibility
1.8	Legal personality for the European Union	5.1	European Parliament: Right for drafting proposals
2.1	CFSP: Responsibility for planning	5.2	European Parliament: Procedures
2.2	CFSP: Decision-making procedures	5.3	Scope of the Legislative Procedures
2.3	CFSP: Responsibility for the implementation	5.4	European Parliament: Election of the President of the Commission
2.4	Financing the CFSP	5.5	European Parliament: Budget Power
2.5	CFSP: Art. J.4.: common defence policy	5.6	Role of the national parliaments
2.6	CFSP: The Union's relations with the WEU	5.7	Power of the Commission
2.7	CFSP: The armaments question	5.8	Power of the Court of Justice
3.1	JHA: Objectives and scope within JHA	5.9	Power of the Committee of the Regions
3.2	JHA: Modes of action within JHA	5.10	Power of the Economic and Social Committee
3.3	JHA: Decision-making procedures	6.1	Employment Chapter
3.4	JHA: Democratic Control	6.2	Monitoring Employment Policies
3.5	JHA: Judicial control within JHA	6.3	Environment
3.6	Financing the JHA	6.4	Stricter rules on environmental policy by Member States
4.1	Composition of the European Parliament	6.5	Community policies: new policies (energy, civil protection, tourism)
4.2	Uniform electoral procedure for the EP	6.6	External economic relations

Appendix 2: Definition of Variables

Acronym of Variable	Informal definition	Formal definition
O	Outcome space	$[0,1]^m$
SQ	Status quo	
AO	Outcome of the Amsterdam Treaty	
θ	Ideal point of an intranational actor (ministry etc.)	
Y	Nationally declared starting position	
piv	Ideal point of the governmental pivot	see chapter 4.1
WS^{cab}	National majority win set (according to piv)	see chapter 4.1
WS^{gov}	National win set according to the declared position	see chapter 4.1
JUWS	Joint international unanimity win set	see chapter 4.1
Relative Win Set Size	Size of WS^{cab} in relation to the other member states' WS^{cab}'s in the same issue	see chapter 5.1
U	Utility function	see chapter 4.1
Success	Defined as 'overcoming the SQ'	0 if SQ=AO 1 otherwise
Failure	No 'success', that is 'not overcoming the SQ'	
Success*Win set size	Interaction effect of 'Success' and 'Relative Win Set Size'	
International Conflict (dic)	Degree of international conflict (based on the nationally declared positions)	see chapter 5.1
Divided Government (ddc)	Degree of governmental conflict (considering all intranational ministries, the premier's office and the presidential office)	see chapter 5.1
Average Governmental Gonflict	Average governmental conflict of all international actors in an issue	$\dfrac{\sum\limits_{i=1}^{n} ddc_i}{n}$
Coercive Coalitions	Accumulated power of all international actors that prefer a position overcoming the SQ[58] despite no complete consensus	see chapter 5.1
Governmental Alignment	Consensus within the government	1 if ddc=0 0 otherwise
Overstating Domestic Restrictions	Declaring a national position that is more restrictive than the pivotal position	see chapter 5.1, Table 1
Overstating*Credibility	Interaction effect of 'Overstating Domestic Restrictions' and 'Governmental Alignment'	
Coincidence of Pivot and Declared Position	Declaring the pivotal position as national position	see chapter 5.1, Table 1
Coincidence*Credibility	Interaction effect of 'Coincidence of Pivot and Declared Position' and 'Governmental Alignment'	
Supermajority Required	see chapter 5.1	
Ratification Leeway of Government	see chapter 5.1	
Referenda Possible	see chapter 5.1	1 for 'yes' 0 for 'no'
Large Member State/ Power Bargaining	Says, if a member state is large[59]	1 for 'large' 0 for 'small'

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[58] Here we assume that all states have the same bargaining power, independent of their magnitude.

[59] We define those member states as 'large' that are represented in the Commission by two commissioners. These are Germany, France, Great Britain, Italy and Spain. All other member states are defined as 'small'.