What Kind of Consensus? Coalitional bargaining in the EU legislative process

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Abstract

In this paper, I theorise how actors in the EU legislative process reach consensual decisions and in which policy direction through a mechanism of "implicit voting". I introduce an applied model of coalitional bargaining which explains the direction of consensus as derived from the acknowledgement by the governments and the European Parliament (EP) that an effective majority in the legislative process can impose a decision. Based on a spatial extension of a simple voting game, the model portrays a process of coalition-formation in which coalitions in the Council of Ministers offer proposals for a compromise to individual member states and to the EP in order to gain sufficient support to adopt a policy decision. The model predicts that the coalition proposal offering a majoritarian compromise which minimises the aggregate distance between the preferences of each member of the coalition and the compromise position will be have more probabilities to be supported as the final outcome. I argue that coalitional dynamics offer a suitable causal mechanism to explain the specific form that legislative consensus takes and, as a consequence, may advance informed predictions regarding the direction of EU policy coordination. An application of the model to a case-study for issue area of environmental policy offers an indication of this predictive capacity.

Introduction

The predominance of decisional consensus in one of the most remarkable features of the legislative process of the EU (Achen, 2006a; Heisenberg, 2005; Mattila and Lane, 2001). Even after the enlargement of the European Union (EU) to 27 countries, cooperation in the decision-making process has been frequently successful, in the sense that legislative agreements are concluded, and the amount of legislation passed maintains a steady pace[1]. However, the fact that consensus in the EU is frequent should not hide the reality that there may be a great variation in the direction that this consensus may take. As Schneider points out, "if we continue to treat the 'culture of consensus' as a constant, we can never uncover why we have more compromise in some contests and more dissent in others" (Schneider, 2008, p.283). Why do some consensual decisions of the legislative process favour considerable policy change while others promote only incremental shifts? How do actors participating in the legislative process arrive at such different outcomes?

This paper explores an answer to these questions by focusing on the mechanism of "implicit voting" occurring in the ordinary legislative process of the EU requiring that member governments vote by Qualified Majority Voting (QMV). Implicit voting refers to the mechanism by which decision-makers participating in the process estimate the existence of an effective qualified majority in negotiations preceding the final agreement, so that an actual vote may not take place and decisions are officially adopted "by consensus". Inductive accounts of the legislative process show that this mechanism is a common feature of decision-

[1] From January 2002 to April 2004 the average number of pieces of legislation passed was 155 per year. In the years immediately following the enlargement of EU-25, this amount decreased considerably (86 pieces from May to December 2004). Yet, for the year 2006, the total adoption rate was back to normal (153 pieces) (see, Hagemann and De Clerk-Sachsee, 2007, p.10; Dehousse, Deloche-Gaudez and Duhamel, 2006).

making in the EU (Hayes-Renshaw, Van Aken and Wallace, 2006; Golub, 1999; Novak, 2010). The testimony of Dutch national representative Leendert Bal is illustrative in this regard:

> If an observer were to attend Council Meetings he or she would notice next no evidence of a qualified-majority voting. It is unusual that for presidencies to ask delegations to vote. The official explanation is that presidencies will seek consensus around the table and will thus avoid isolating colleagues. The expression of *noblesse oblige* is, of course, very welcome but it is only part of the explanation. Qualified-majority voting is like the sword of Damocles hanging above the negotiation table. It is in the mind of everyone. The Presidency, the Commission and delegations assess the state of the negotiation – almost permanently and automatically – in terms of whether there is a qualified majority of a blocking minority (Bal, 2004, p.129)

This implicit recognition of the procedural rule of qualified majority voting in legislative negotiations has major implications for the characteristics of legislative consensus in the EU. As the analytical literature on majoritarian rules informs, when decision-makers estimate that disputes can be resolved by the acceptance of a proposal by a majority of a decision-makers, outcomes are likely to reflect a redistributional change of the policy issues (Mueller, 2003). Since a majoritarian subgroup of decision-makers can enforce a decision for the whole group, decision-makes have then incentives to build coalitions in order to enhance the policy option they prefer and to attempt to mitigate concessions to policy stances that go in a different direction of these preferences. On the other hand, once we know that consensus in the EU can no longer be considered solely in terms of presence or absence of an agreement, the evaluation of whether consensual decisions promote policy change becomes relevant. In the context of the EU after the enlargement, legislative decisions are to be made by 25 (now 27) countries that which show marked structural differences in their macro-economic indicators

for almost every policy area (Dobbins, 2008). This entails that whether the EU is promoting more or less policy change is highly dependent on the distribution of preferences and power of decisional actors and on the form of cooperative behaviour they display in the decisional process.

In spite of the attested occurrence of implicit voting and coalitional dynamics, with the notable exception of Boekhoorn, Van Deemen and Hosli (2006)[2], there has not been, to date, theoretical studies that give an explicit representation of how the mechanism operates and in which way it determines the form of consensual decisions in the EU. Instead, the now extensive literature on how the EU takes legislative decisions has adopted a different causal reasoning. Procedural models in the Veto Players tradition take the configuration of a majority in the Council as given and emphasise the role of legal rules governing the institutional interaction that leads to the adoption of decisions (Combrez, 2000, 2003; Tsebelis, 2002; Tsebelis and Garrett, 2001; Steunenberg and Selck, 2006). Generalised models of bargaining focus on the informal negotiations of decision-makers and predict consensual decisions which include the preferences of all actors, irrespective of the incidence of formal rules (Achen, 2006a, Arregui, Stockman and Thomson, 2006; Schneider, Finke and Bailer, 2010). These modelling strategies involve clear shortcomings for adequately "uncovering" why cooperative agreements take one form or another. As recent empirical research has evidenced, the disproportionate influence that procedural models assign to the least forthcoming voter in the Council of Ministers (henceforth the Council) draws the flawed prediction that decisions tend to lead towards low common denominator solutions (König and Junge, 2009; Mattila and Lane, 2001; Selck, 2005). On the other hand, the bargaining explanation of consensus based on the formation of "the grand coalition" reveals little about the causal mechanism by which an outcome is selected instead of another, and derives the

[2] Although Boekhoorn, Van Deemen and Hosli doe not refer to the mechanism of implicit voting in any part of their work, the coalitional explanation that they present corresponds well to how implicit voting operates.

general and unspecified prediction that decisions tend to fall in the middle of the policy space (Schneider, Steunenberg, Widgrén, 2006, p. 304)[3].

Using a formal model of coalitional bargaining, I delineate a representation of the mechanism of implicit voting in the EU legislative process which permits to assess the conditions under which consensual decisions will be directed towards more or less policy change. The basic thrust of the model is to explain this direction as derived from how member governments with divergences in power and interests endogenise the specific institutional features of the EU in their negotiations. The model is conceived in the tradition of spatial coalition-formation theories. These theories have been mostly applied for the study of government formation in parliamentary democracies (De Swaan, 1973, Grofman, 1982; Mckelvey, Odeshook and Winner, 1978, Owen, 1995; Owen and Grofman, 1984, Schofield, 2007). Here, however, the coalition formation perspective is applied to study how decision-makers with different preferences and power come to decide on a unique policy program. The representation of the legislative process proposed here pays special attention to the assumption made by spatial theories that the probability of a coalition of forming depends on the policy distance among its members (Axelrod, 1970; Boekhoorn, Van Deemen and Hosli, 2006; De Vries, 1999; Owen and Grofman, 1984). I translate this conception into a bargaining game in which the choice of actors will be ultimately restricted to a set of discrete majoritarian compromises.

The game is intended to represent the co-decision procedure by capturing the essential institutional feature that decisions are adopted when decision-makers recognise that a coalition of a qualified majority of member governments and the EP have reached a compromise on a position to be adopted for the whole assembly of decision-makers. Adapting Mckelvey et al. formulation of competitive solution (Mckelvey, Odeshook and Winner, 1978)

[3] Appeals to logrolling mechanisms have a similar effect of masking the direction of policy coordination that the EU is taking, since positions on legislation taken across policy areas and across time will tend to balance each other out (see Arregui and Thomson, 2009; Bailer, 2004; König and Junge, 2009).

to a context in which actors have different assets to influence the outcome, coalitional bargaining is conceived here as a process in which coalitions compete in offering proposals for a compromise to decision-makers outside the coalition so as to form the majoritarian coalition sufficient to adopt a decision.

In choosing a proposal, individual decision-makers have spatial preferences but they also deem the breakdown of the negotiations as the worst possible outcome. They will then care about the probability that a coalition compromise will be supported by other actors. The payoffs for the decision-maker from accepting one or another coalition compromise is then function of the distance from their ideal point from the compromise *and* of the support that a given proposal receives from other actors, where this support is dependent on how the weight of the members of the coalition modify the representation of their own preferences within the coalition. The model yields the proposition that, in a comparison between several discrete majoritarian compromise proposals, the coalition who proposes the compromise that minimises the sum of the weighted distances between each member position and the compromise position will have more probabilities to being supported by a majority, and will be able to impose this compromise as the final decision of the legislative process

The paper is organised as follows. The next section introduces the model of coalitional bargaining in its structure and solution parts. After the theoretical exposition, in the second section I empirically apply the model to legislative process of the negotiation and adoption of the LIFE Plus directive for structuring the financing of environmental projects. The paper concludes with a discussion of the coalitional explanation and of its tentative predictive power.

The model

Structure of the decision-making game

In order to characterize how decision-makers take into account the institutional features of the EU, decision-making is represented in the form of a committee simple voting game (Machover and Felshental, 1998; Owen, 1995). Let N be the set of member governments attempting to influence the outcome of legislative negotiations, $C \subseteq N$ the *coalitions* that member governments can form, and v a mapping that assigns *payoffs* to each coalition. In the simple game, only the *winning coalition, W,* gathering at least a qualified majority of the weighed votes in the Council can assure the acceptance of a final policy proposal and impose it to the whole assembly of the member governments. The final outcome takes then the form in which the winning coalition is assigned the total value of the game (that is, the total payoffs of the game which its members are to divide among themselves), while losing coalitions get nothing, so that the solution of the game is defined by the characteristic function that specifies that $W = \{C \,|\, v(C) = 1\}$. The EU is a weighed voting system. Individual voters actors hold a different number of votes, *w,* and a group can form a winning coalition if they gather at least a quota, *q,* of 3/4 of the votes, so that $w \geq q > 0$. To the voting game, we will add the *institutional requirement* of attaching a "fee" to the formation of the winning coalition, in the form of the inclusion of the EP, so that for all practical purposes, the quota will be modified in the following structure: $w + \mathrm{EP} \geq q > 0$.

We develop this scheme further by integrating empirically-oriented conditions referring to the EU legislative process. Suppose that conflict among decision-makers occur over issue alternatives concerning how a policy is to be defined, as when they have to chose between adopting free-market or regulatory measures for environmental policy. We further

note that most proposals submitted by the Commission for legislation are multi-dimensional, so that decision-makers are to decide simultaneously on two or more issues to adopt the final policy. In particular, let us adopt a spatial representation, so that all issues discussed concerning the proposal, *x,* can be represented in a in a m-dimensional Euclidean metric space R^m [4], and each decision-maker, *i,* takes a policy position in the policy space, or its *ideal point*, x_i. Decision-makers evaluate the attractiveness of alternative outcomes in terms of their distance from their ideal point, so that, for any policy outcome $\theta \in R^m$, *i'* utility for θ is a monotonically decreasing function of the distance between θ and x_i, so that,

$$U^i\theta = f(\|\theta - x_i\|)$$

The posited assumed conditions are standard in the literature of spatial analysis of voting (see Enelow and Hinich, 1984; Owen, 1995). We add three further assumptions about the disagreement outcome, the characteristics of actors and coalitions.

First, consistent with the observed cooperative behaviour that defines the culture of consensus (Achen, 2006a; Schneider, 2008), I assume that the non-agreement or *reference point*[5] is the worst outcome for any actor. By positing that the disagreement outcome is highly undesirable we imply that governments are willing to accept the final decision, even if they are not in the winning coalition. In other words, they will try to avoid a blocking situation. The dislike of the breaking down of negotiations can be naturally justified by taking into account of the long-term horizon of governments. In this view, governments generally

[4] More precisely, the policy space is composed by a series of issues M = {a, b, c…m}, where $m \geq 1$, so that a policy in the space will consist on all issues $a \in M$, and $X(a) \in R^m$ is the subset of vector points in the m-dimensional space on which actor *i* adopts a policy position, $X_i(a)$. This specification will be necessary to denote that a player's position on an issue, and the influence it can exert on the issue, may differ from that taken on another issue. I will economise notation and denote policy positions of actors for all issues always as x_i.

[5] For simplicity, I will refer to the non-agreement reference point as equivalent to the status quo. In most cases of EU legislative process, this is a plausible equivalence (see Thomson, Stockman, Achen and König, 2006). It implies that the status quo is set as the position of the member state that rejects further legislative measures.

value the EU as an institution and, in the long term, they expect to end up in more winning coalitions than in losing coalitions (Lane, 2006, p. 152).

Secondly, I assume that member governments have characteristics by which they can exert influence the negotiation, and that these characteristics are common knowledge, so that decision-making occurs under complete information. First, as already noted, a member government has a *policy position*, x_i, in a m-dimensional policy space. Other things being equal, governments can exert more influence in negotiations when their position is proximate to that of other actors. Conversely, an actor holding extreme preferences will be less influential. Secondly, each member government holds a certain amount of *voting power, v,* which makes it more or less decisive in the adoption of a decision by the whole assembly (Machover and Felshental, 1998). Voting power is defined constitutionally according to the share of weighed votes that a member government has in the whole assembly of actors. In a given coalition, a member government will have a score of voting power according to how its votes can contribute to this coalition to be winning in the game. Finally, each member government attaches a different *salience* to issues. Salience captures how much the policy space means to actors, and hence determines how much effort they are willing to spend in negotiations. In this view, salience represents an indicator of actualisation of decisiveness (see Bueno de Mesquita, 1994). Thus a member government can be described by a vector of three values $\left[x_{i,} v_{i,} s_i \right]$ always in a Euclidian space with metric properties.

An important feature of the model is that the EP is treated as an *institutional requirement* which is always needed in addition to the winning coalition in the Council to adopt a decision. In this view, the EP is not a voter in any strict sense, so that $\text{EP} \notin N$. Instead, the EP is a constant that whatever the group of member states that gathers a qualified majority has to include in the final compromise. The EP takes a position in the policy space and attaches salience to issues. According to the tests carried out by Thomson regarding the

balance in power of the institutions in the EU, I assign an invariant power to the EP which is equivalent to the 12 per cent of the total voting power of the legislative setting (Thomson, 2011, forthcoming). Note that the constant value of the EP refers to the institutional constraints of the negotiation, which is defined by the voting power of actors, and not to preferences and salience, which are empirical factors. Thus, adding the constant means that member governments need to obtain the value of the winning coalition, that is 1.00, and to add the institutional requirement, which is .136 (see Table 1 below for clarification). The notion of institutional requirement means that the EP is treated as an exogenous actor to the winning coalition *and* that its consent is needed. In introducing this notion, I am then not applying a voting game for computing the power of the EP[6]. This is a theoretical sacrifice which is needed for the purposes of modelling the co-decision procedure according to the empirical data we have on the relative power of EU institutions. The EP is denoted by the vector $\left[x_{EP}, v_{EP}, s_{EP}\right]$.

Third, I assume that the *probability that a coalition will form increases with the similarity of preferences of all its members.* Adapting a scheme proposed by De Vries (1999) and Bilal, Albuquerque and Hosli (2001), I use an aggregative formulation to derive this similarity, by looking first at the distance between each player's position and the coalition position and subsequently adding all the distances. So that, given two coalitions C_1 and C_2, C_1 will be more likely to form, $P(C_1) > P(C_2)$, when $\sum_{i \in C_1} \left\| (C_1 - x_i) \right\| < \sum_{i \in C_2} \left\| (C_2 - x_i) \right\|$[7].

[6] In fact, in terms of voting power, if we consider the EP as a separate actor that is a veto player, we will obtain compound game of the kind of the UN Security council (see Owen, 1995, p. 277). The power index for such a game will give an extremely disproportional weight to the EP relative any other member of the Council, which in no case will be a realistic assessment.

[7] To obtain the precise probability we simply divide each "coalitional distance" by the total sum of coalitional distances of all possible coalitions and subtract the result from 1.00. For the purpose of selecting a coalition, however, this procedure turns out to be unnecessary when there is a small number of actual possible coalitions and we can compare the coalitional distances directly.

Solution: coalition compromise

In the voting spatial game just defined, member governments have to select a policy outcome θ over all others possible alternatives that will be supported by a winning coalition consisting of a qualified majority of potential voters and that will obtain the support of EP. How this policy position will be found?

The selection of an outcome consists of a process in which decision-makers will bargain in order to a reach a policy compromise that will be adopted as the final legislative decision. The bargaining process is conceived in two steps. Upon a proposal of the Commission, member governments first position themselves the policy space in each of the issues under discussion. I do not examine further the preferences of the Commission in this policy scheme. This is because under the co-decision procedure the capacity of the Commission to strategically vary its proposal is limited to the first stages of the procedure. For this reason, the role of the European Commission is limited in the model as initiating the process with a proposal that is to taken as the reference for configuring the policy space[8]. By contrast, the EP is a fundamental actor in this last stage of coalitional bargaining. As the member governments, the EP takes a position on the proposal of the Commission. The EP, however, will enter the barraging process, not as a member of a winning coalition, but as a separate actor which has the role of an institutional requirement. This crucially entails that the power of the EP does not change with the distribution of preferences of member governments in the Council.

In the second step of the bargaining process the coalitions will bid for the capture of individual member governments as to gain the sufficient support to adopt a decision. This

[8] This reduction of the co-decision procedure to the Council and the EP has been also defended also Tsebelis and Garret (2001) is similar grounds. Tsebelis and Garrett argue that the Commission agenda-setting powers under the co-decision procedure, as reformed in the Amsterdam treaty, are irrelevant. Other authors, however, have modelled the co-decision procedure by considering the agenda-setting power of the Commission on the basis of its right to initiate a bill (Crombez, 2003; Steunenberg and Selck, 2006). In my view, the influence of the Commission is implicitly contemplated in the proposal it submits at the first stages of the procedure. Yet, with a view to modelling co-decision as coalitional process, it is pertinent to focus on the final stage.

representation of a coalitional bargaining basically adapts Mckelvey et al. conception of a competition among coalitions (Mckelvey, Odeshook and Winner, 1978) to the context of the EU. Coalitions need to offer proposals for a policy compromise that a qualified majority of governments and the EP will accept. Given the different factors by which member states can exert influence, I will model proposals in the form of a Nash bargaining solution or a "compromise model solution", that is, the weighed average of the positions of member governments and the EP, where the weights are their voting power and saliency (Nash, 1996 [1950]; Achen, 2006a; Thomson, 2011). With the inclusion of the EP, a compromise of coalition *C* is formally defined as the vector:

$\theta_C = \frac{\sum_{i \in C} s_i v_i x_i + s_{EP \notin C} v_{EP \notin C} x_{EP \notin C}}{\sum_{i \in C} s_i v_i + s_{EP \notin C} v_{EP \notin C}}$, where x_i stands, as before, as the ideal point of actor *i* in all issues considered, x_{EP} is the position of the EP, *v* denotes voting power, and *s* the salience.

A proposal then is defined as an ordered pair $(\theta; C + EP)$, such that $\theta \in (C + \text{EP})$ and $C \in W$. The set of proposals satisfying such conditions is the set of feasible outcomes or *the core*. That is, none of these proposals could be defeated by a qualified majority of votes. Such a set will be discrete and finite, but, in a multidimensional space, is likely to contain more than one element (Mckelvey, Odeshook and Winner, 1978). However, coalitional compromises will differ in the probability to offer a satisfactory position to all its members. As defined above, this probability is inversely proportional to the sum of the distances between each player's position and the coalition compromise. Given the different probabilities for coalitions adopting a given compromise to form, the solution that is derived from the model is the following:

Proposition: the compromise proposal of the wining coalition which, with the EP, has more probabilities to form will be selected as the final outcome of the decision-making process. Given two competing proposals $(\theta_1, C_1 + EP)$ and $(\theta_2, C_2 + EP)$, where $C_{1,}C_2 \in W$, then the model predicts that θ_1 will be selected as the final policy position, if $P(C_1 + EP) > P(C_2 + EP)$.

The coalition compromise solution reflects the intuition that, in balancing the incentives to be in a majoritarian coalition closer to their preferences and being in a majoritarian coalition that has more probabilities to win, decision makers will be inclined to choose the more supported coalition. In postulating the coalition compromise solution, however, we are compelled to abandon to a certain extent the individual rationality criterion by which an actor will choose the coalition closest to his or her ideal point, instead of the most supported one. However, the justification of this collective view of utility is natural enough in the cooperative context of the EU[9]. Assuming that the disagreement outcome is the worst case-scenario, the individual decision-maker has an incentive to avoid cycling deadlocks and adopt a final compromise. In principle, decision-makers could switch coalitions infinitely. However, they recognise that opportunities to better their interests will end at some point. They will recognize this point in the compromise that is more probable to satisfy a greater number of actors, given their different strategic weight in power and salience.

Case study: The LIFE plus Regulation

In order to illustrate the model and to give an indication of its predictive possibilities, I will apply it to the legislative process concerning the adoption by the Council and the

[9] This reliance on a collective view of utility is not an unusual feature in coalition-formation theories (see Boekhoorn, Van Deemen and Hosli, 2006, Schofield, 2007, de Vries, 1999).

European Parliament of the Commission proposal for the LIFE Plus Regulation (Regulation (EC) No 614/2007) by co-decision. Succinctly presented, the LIFE programme consists of a macro EU-level financial instrument, launched in 1992, for projects of conservation of environment and natural resources throughout the EU countries, including also provisions for some acceding and neighbouring countries. The Commission LIFE Plus proposal envisaged to reshape the financing program. The proposal was adopted on the 14 of May of 2007, in the third lecture of the co-decision procedure and after almost three years of discussion[10]. Negotiations focused on three contentious issues: the finance structure of the LIFE Plus instrument, the inclusion of biodiversity and nature in the financing programme, and the inclusion of environmental technology in the program.

Data on the actors' positions, salience, and outcome for this proposal is part of a larger dataset configured by Robert Thomson and his collaborators for EU legislative proposals introduced after 2004 (see Arregui and Thomson, 2009). With this data, Thomson et al. expand the research program of Decision-making in the European Union (DEU). The DEU program collects data from on positions, salience and outcomes for 66 legislative proposals and 162 issues introduced by the Commission for decision between 1999 and 2000, through expert interviews. Thomson et al. have included new data on 53 controversial issues from 17 legislative proposals discussed in the Council after the 2004 Enlargement[11].

The DEU research design is well known and extensively explained in Thomson and Stokman (2006). I will thus redirect the reader there for details and simply point out how the information is represented for the purpose of the empirical application of the formal model. Positions of actors and the importance they attach to the issue are presented as a continuum for each issue of a proposal, representing the gradation of two extremes of a controversy, in

[10] European Union Legislative Output 1999-2010 [database], Centre for European Studies (Sciences-Po) and Centre for Socio-Political Data (Sciences-Po, CNRS) [producers], Centre for Socio-political Data (CNRS) [distributor]

[11] I am grateful to Robert Thomson for providing me with access to this data

one-dimensional space. In the LIFE Plus proposal, the SQ is located at the position 0, and the position 100 correspond to the most radical policy change in regard to the SQ. The issues, however, do not necessarily entail a policy change favouring traditional pro-environmental countries. In fact, some changes would facilitate the integration environmental "laggards" into the program, such as the increase of the EU budget for nature and biodiversity projects, while other changes envisaged, such as the introduction of environmental technology, are linked to research and development projects preferred by more high-environmentally regulated countries.

To facilitate the illustration of the model, I will first represent the coalition formation process for the issue of biodiversity in the LIFE Plus directive, applying the model on a one-dimensional space. This issue represents well the dynamics of the co-decision, with the interaction between the Council and the EP. I will subsequently discuss the extension of the model to a m-dimensional space, that is, for the proposal as a whole.

(Figure 1 about here)

Our first step is to specify the institutional rules of the co-decision procedure that define the relative decisiveness of the Council and the EP. Table 1 shows the distribution of power (i.e. decisiveness) of the Council and the EP. The Council always needs to form a winning coalition of its own, before interacting with the EP. Hence, the power of the Council is defined by its forming a winning coalition in its voting game which will have always the value of a 1.00. The institutional requirement of adding the EP with a constant of 12 per cent of the total institutional decisiveness is then represented by a power of .136, which corresponds to 12 per cent of the combined decisiveness of both institutions.

(Table1)

Table 2 specifies the number of votes that the Council will need to form the winning coalition. In the EU-25 under the co-decision procedure, a qualified majority is obtained with a quota of about 3/4 or 70 per cent of the weighed votes. When all member governments participate in the process, this is equal to 232 out of 321 votes. In the concrete negotiation over the issue of biodiversity, however, some member governments were indifferent and did not take a position, so that the total number of active votes was 303 instead of 321. The quota of the voting regime is adjusted accordingly so as to represent the proportion of 70 per cent. This quota will be equivalent, in the present negotiation, to 216 votes.

(Table 2 about here)

The second step of the process consists of assessing the positioning of member governments and the EP on the issue from the proposal of the Commission, this issue dealing with the inclusion of the treatment of nature and biodiversity in the LIFE instrument. The positions of the member governments, as well as the salience they attach to the issue, are also shown in Table 2 and represented spatially in Figure 1. As noted, in the co-decision procedure, the Commission does not enter in the final negotiation of the proposal. I have thus omitted the Commission from the policy space, judging that its role as a proposer ends here.

(Figure 1)

We can identify in the figure a first partition the policy space into two preliminary coalitions: A first coalition is formed by old big member states save Italy, and the northern countries.

This group prefers to limit the increase of the budget for issues regarding nature and biodiversity to activities that are innovative. This is a position of moderate policy change relative to the SQ of exclusion of biodiversity as a part of the LIFE Plus instrument. The second policy bloc is composed mostly of new member states from Eastern and Central Europe, but also Italy, Spain, Portugal and Belgium. These sates prefer to include all biodiversity activities and to increase the budget. This is also the position of the EP. The terms of the controversy show a dimension of conflict dividing contributors and non-contributors, partially deviating from the pattern of northern member states preferring more policy change in environmental policy. Note, however, that these states still favour environmental-friendly policies. Yet, their focus is on innovative activities.

We turn now to the stage of coalitional bargaining. Coalitions offer proposals for a compromise to individual member governments, which will complete the votes needed to form a winning coalition. In the present case, this entails that a coalition has to attract members until it completes 216 votes, and also obtain the support of the EP. The coalition which can offer a more satisfactory compromise to its members, as measured by the proximity of their preferences, will have more probabilities to get its proposal supported and will adopt the final decision.

In order to represent the process more dynamically, let us keep the "natural" coalitions that we have in the policy space and concentrate on the proposal offer of the coalition of bigger size, the one integrated mostly by new member states. This coalition holds 176 votes, more than the alternative protocoalition. This means that, comparatively, it provides already a satisfactory position to a larger number of member governments. However, it will still need at least 40 votes to complete a winning coalition. In this situation of only to positioned groups, salience becomes determinant. The coalition will attempt to attract those members from the other coalition that attach less salience to the issue, since the integration of

these member governments instead of others will minimise the distance among the members of the coalition. The coalitional process will permit to set a direction of towards policy change by means of excluding some moderate actors. We can then expect that the coalition will integrate the UK, Austria and Denmark and leave out France, Germany and Sweden[12].

To compute the final compromise we apply the of a Nash Bargaining solution, that is, the weighted mean of the preferences of governments forming the coalition and of the EP – the weighs being their voting power and the salience they attach to the issue. I use Pajala's and Widgrén's "normal swing variation" of the Banzhaf index to calculate the governments' voting power in the winning coalition (see Table 3). This variation weighs a member share of votes in a policy coalition by the power of the coalition. Since the winning coalition always has a collective voting power of 1.00, a member's voting power in this decisive group simply equals its share of votes in the group. For instance, in the winning coalition, the normal swing variation for UK (29 votes) is computed as 29/235*1.00 = 0.123[13]. On the other hand, a member government will see its preferences represented in proportion, not only to the share of votes, but also to the effort it invests in the negotiation (salience). Using the values of voting power and salience of Table 3 in the compromise model, the outcome prediction from the bargaining among all the members of the coalition is of *74,11*.

How does the institutional requirement of integrating the EP affect this position? The EP holds an initial position at point 100 for this issue. The EP has a weight that is equivalent to 12 per cent of the Council and it attaches considerably salience to the issue. With the inclusion of the EP the final compromise proposal be the following: (*76.23*; EP, Portugal,

[12] Observe that this entails the inclusion of Austria and Denmark entail more votes than those strictly needed. Actually, if we were dealing with only one issue, Austria and Denmark would not be member of the wining coalition, but as those two shares the position of a majority of "winning actors" in the other two issues, they cannot be excluded. The same is not true for the case of Sweden, which, although needed in the third issue, it does not share a position with a majority of winning actors in any of the three issues of the proposal.

[13] In a winning coalition, all actors are decisive, since the leaving of the coalition by any of them will turn the coalition into losing. However, the normal swing variation captures the fact that not all the member states will equally affect the coalition if they leave. Intuitively, we may think that actors with more votes will be harder to substitute if they leave. Therefore, the effect that member states have by leaving will be proportional to the votes to which they contribute to the coalition.

Slovenia, Spain, Belgium, Cyprus, Greece, Hungary, Latvia, Poland, Estonia, Lithuania, Malta, Slovakia Check Republic, Italy, Denmark, the UK, Austria and the Netherlands).

(Table 3 about here)

The issue of biodiversity was but one of the three issues negotiated in the proposal for the LIFE Plus directive. The decisional outcome involved the whole the proposal, and it is likely that decision-makers decided over them simultaneously. We need then to apply the model in a m-dimensional form. When we consider coalition formation for the multidimensional space, the predicted outcome is (***69.84, 74.11, 46.89)***. As compared with other alternative proposals, this compromise minimises the sum of the distances between of each of the members' position and the compromise point. It will then likely be selected as the final decisional outcome of the LIFE Plus directive. When we look at all the issues, only Germany and France remain as clear excluded actors in all the issues. The extreme position that these two big countries take would decrease the benefits that all other actors in the winning coalition. As a consequence, the proposal that minimises the coalitional distance and is supported as the decision will exclude them from the compromise. On the other hand, Sweden is not necessary for obtaining a compromise either in the first two issues. However, it is needed in the third issue, so it cannot be completely excluded. This eventuality is likely to happen when several decision-makers do not take a position in some of the issues under discussion, as is the case in the issue of technology.

The multi-dimensional picture is also revealing in terms of the direction of consensus. According to the model, consensus leads to considerable policy change in the adoption of the LIFE Plus directive. An interesting finding of the application of the model is that the EP can have considerable influence in a so-called supranational scenario, that is, where its position is

at the opposite extreme of the SQ. In this case, it is the in regard to the issue of technology that the EP drives the Council position that was closer to the SQ towards a moderate policy change.

How does the prediction of the model fare in comparison to the observed outcome? The actual outcome is (75, 50, 40). The Mean Absolute Error (see Achen, 2006b) of the model *for this proposal* is of 12.02, which is a good result as compared to other deterministic models (see Achen, 2006b). Indeed, if we consider only the "meaningful outcomes", so that only the positions declared by the decision-makers were taken into account, and the predictions adjusted accordingly, our model will offer an exact point prediction for this proposal. However, as Achen notes, opting for adjustments to meaningful outcomes will produce biased forecasts, given the structure of the data. In this view, it is preferable to appeal to an assessment of the performance of the model in the terms of the distance between predicted and observed outcome, the forecasting error.

An interpretation of the meaning of the error can be gain if we consider the result issue by issue. We can see that the issue of biodiversity negatively sways the prediction of the model. Here the observed outcome actually favoured the position of the member states that the model's winning coalition excluded. More importantly, the actual outcome is on the position of those excluded actors: Germany, France and Sweden. The reading that we can make for this specific case is that France and Germany are *de facto* veto players, as it has been suggested by other authors (Hosli, 1996), so that their preferences are always contemplated in some degree. More investigation with a larger sample of legislative proposals would be required to assess whether this is a general phenomenon in the EU legislative process after the enlargement.

Conclusion

This paper has presented a model of coalitional bargaining in order to explain the how consensual decisions are taken in the EU decision-making and which form this consensus takes. The model should be situated in the literature on rational choice bargaining and procedural models applied to the EU legislative process. In more specific theoretical terms, the model relates to the tradition of coalition formation theories which, so far, have been rarely applied to the EU legislative context. In this respect, the model specifies that member governments participating in the EU legislative process under a majority voting rule bargain a unique coalitional compromise, irrespective of whether the vote takes place. The model presents the proposition that the compromise adopted by the members of a majoritarian coalition which, including the EP, have more homogenous preferences, is more likely to be adopted as the final decision.

The model is able to provide an explanation of how member states set the direction of consensual decisions and under which conditions this decisions are likely to differ from lowest common denominator decisions. First, the theory presented here estimates that consensus needs not to fall vaguely in the middle of all actor preferences, as most general models of bargaining predict (Achen, 2006b). Instead, the causal mechanism of implicit voting leads to a more specific setting of the direction of policy coordination, corresponding to the preferences of a majority of actors. The composition of this majority is determined by the proximity of preferences of actors in the policy space. But this proximity is weighed by how decisive actors are in terms of voting power, and how much effort they are likely to invest in order to make their power count. Secondly, the model predicts that, under the conditions of heterogeneity that we find in most areas of the EU, the majority position in the Council will never be at the minimal level of the SQ and, in fact, may be quite distant from

the SQ. In addition, even if most actors prefer the SQ, if the EP adopts a supranational position, it is likely to drive forward the outcome to the middle of the policy space.

The application of the model to empirical data on environmental policy suggests that the need to form a qualified majority, but no more, can drive consensus towards a determined direction. The coalitional model provides a sound causal mechanism to explain why decisions fall where they fall. In terms of prediction, however, the LIFE Plus negotiation examined not will allow us to make estimates about forecast accuracy. With this caveat in mind, we can modestly take the results of the empirical analysis as indicative of how the model works and which potential forecasting performance it may have. In this view, the Mean Absolute Error for this case permits us to have some confidence regarding the predictive possibilities of the model.

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Tables and Figures

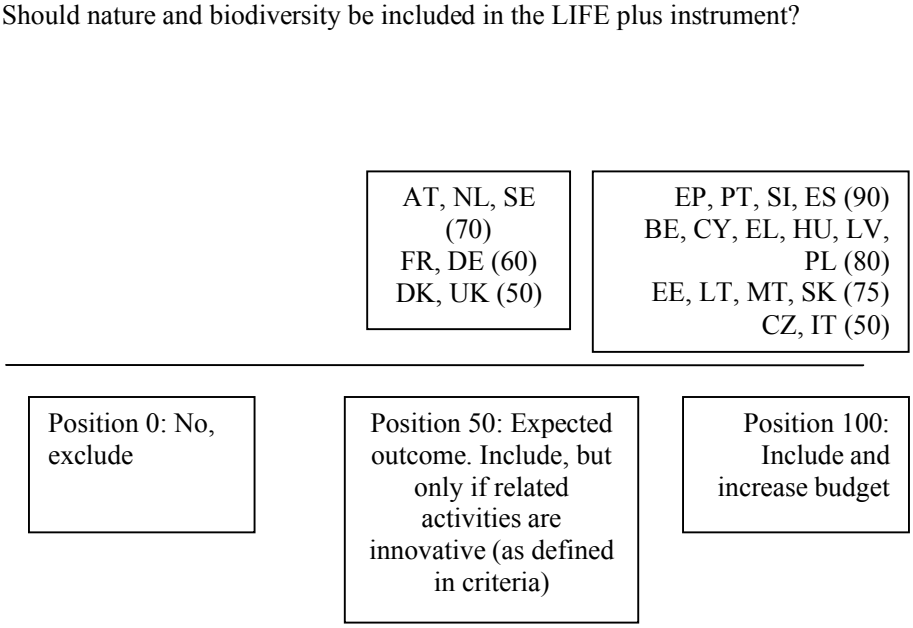
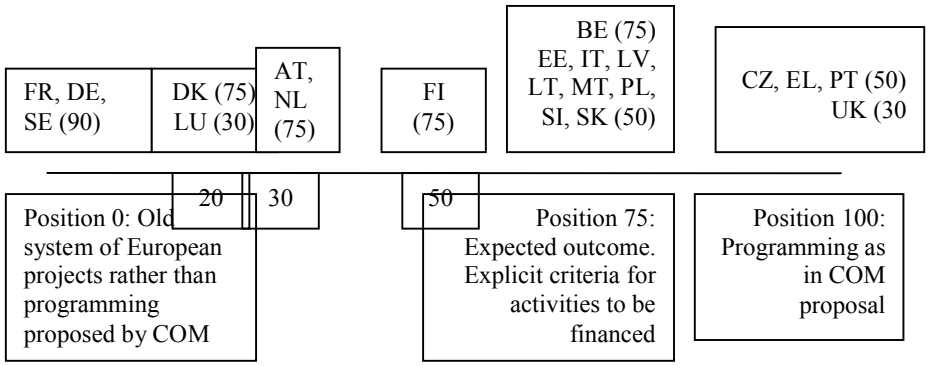


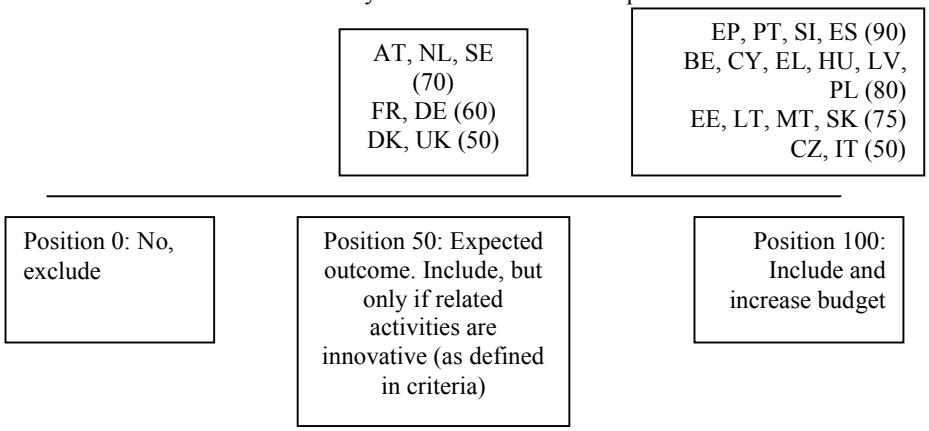
Figure 1 Positions and salience of decision-makers on the issue of biodiversity of the LIFE Plus proposal[14]

[14] Data provided by Robert Thomson

1. How should the LIFE plus instrument be structured?



2. Should nature and biodiversity be included in the LIFE plus instrument?



3. Should environmental technology be included in the LIFE plus programme?

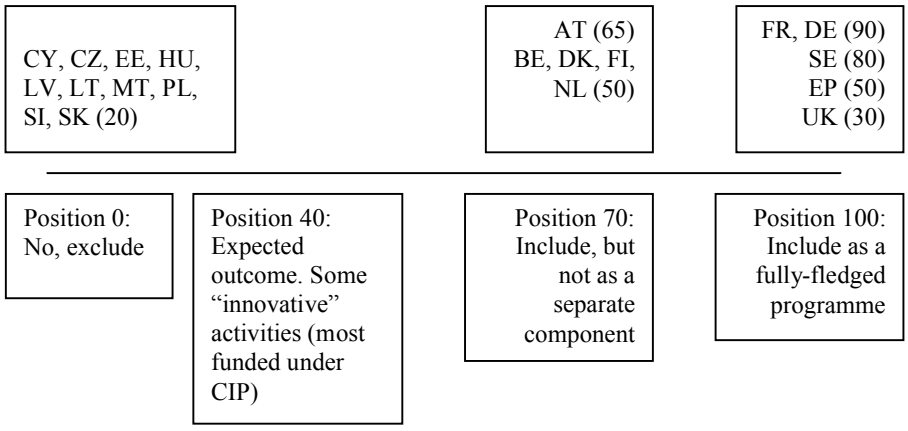


Figure 2 Positions of decision-makers in the three issues of LIFE Plus[15]

[15] Data and design provided by Robert Thomson.

Table 1 Relative Power of EU Institutions under QMV co-decision procedure

	Decisiveness	%
Commission	0	0
Council	1.00	12
EP	.136	88
Total	1.136	100

Table 2 Positions, power and salience of member governments the issue of biodiversity, LIFE Plus[16]

states	votes	Voting power	salience	position
Germany	29	0.092	60	50
France	29	0.092	60	50
UK	29	0.092	50	50
Italy	29	0.092	50	50
Spain	27	0.087	90	100
Poland	27	0.087	90	100
Netherlands	13	0.044	70	50
Greece	12	0.041	80	100
Czech R.	12	0.041	50	100
Belgium	12	0.041	80	100
Hungary	12	0.041	80	100
Portugal	12	0.041	90	100
Austria	10	0.034	70	50
Sweden	10	0.034	70	50
Denmark	7	0.024	60	100
Slovakia	7	0.024	90	100
Lithuania	7	0.024	75	100
Latvia	4	0.014	75	100
Slovenia	4	0.014	90	100
Estonia	4	0.014	75	100
Cyprus	4	0.014	80	100
Malta	3	0.010	80	100
total	303	1.00		

Quota:216

WCs: 475760

[16] Calculations of voting power made with "Powerslave Power Index Calculator" (Pajala, A., Meskanen, T. and T. Kause, T. (2002): **Powerslave Power Index Calculator: A Voting Body Analyser in the Voting Power and Power Index Website**. [online]. Published 22.4.2002. Updated 31.5.2007. University of Turku. <URL:http://powerslave.val.utu.fi/>.)

Table 3 QMV Winning Coalition. LIFE Plus. Issue of biodiversity and predicted outcome

Country	**Votes**	voting power	salience	Coalitional position
UK	29	0,123	50	
Italy	29	0,123	50	
Spain	27	0,114	90	
Poland	27	0,114	90	
Netherlands	13	0,055	70	
Greece	12	0,051	80	
Czech R.	12	0,051	50	
Belgium	12	0,051	80	
Hungary	12	0,051	80	
Portugal	12	0,051	90	
Austria	10	0,042	70	
Denmark	7	0,03	60	
Slovakia	7	0,03	90	
Lithuania	7	0,03	75	
Latvia	4	0,017	75	
Slovenia	4	0,017	90	
Estonia	4	0,017	75	
Cyprus	4	0,017	80	
Malta	3	0,012	80	
total	216	1.00		74.11

Compromise Proposal (with the inclusion of the EP): **76.3**