FACULTÉ DES SCIENCES ÉCONOMIQUES, SOCIALES, POLITIQUES ET DE COMMUNICATION
COMMISSION DOCTORALE DU DOMAINE DES SCIENCES POLITIQUES ET SOCIALES

"NATIONAL STRATEGIES IN EU DIPLOMATIC GOVERNANCE: THE INFORMAL, TRANSACTIONAL AND ROTATIONAL MANAGEMENT OF NEGOTIATIONS BETWEEN MEMBERS STATES OF THE EUROPEAN UNION"

ALAIN GUGGENBÜHL

THÈSE PRÉSENTÉE EN VUE DE L'OBTENTION DU GRADE DE DOCTEUR
EN SCIENCES POLITIQUES ET SOCIALES DE L'UNIVERSITÉ CATHOLIQUE DE LOUVAIN

11 JUIN 2019

<u>MEMBRES DU JURY</u>

PROF.	ELENA AOUN	UCLOUVAIN (PRÉSIDENTE)
PROF.	PIERRE VERCAUTEREN	UCLOUVAIN (PROMOTEUR)
PROF.	LOUIS LE HARDY DE BEAULIEU	UCLOUVAIN (SECRÉTAIRE)
PROF.	SOPHIE VANHOONACKER	MAASTRICHT UNIVERSITY
PROF.	ALEXANDRE DE STREEL	UNIVERSITÉ DE NAMUR
PROF.	ALEXANDER MATTELAER	EGMONT

Cette thèse sur articles est la synthèse d’un voyage professionnel fait de rencontres avec des centaines de représentants d’États et d’institutions européennes sans qui il n’aurait jamais pu avoir lieu. Je les remercie ici d’avoir enrichi, inspiré et éclairé ce voyage avec leur expérience et d’avoir partagé des tranches de leur vie.

Il y a eu aussi sur ce chemin mon Promoteur, dont les conseils et le système de guidage m’ont précieusement indiqué la bonne voie.

A destination, il y a finalement tous les membres du jury que je remercie d’avoir accepté de lire, écouter et juger cette forme de récit.

Table of Content

Introduction

Every year, the Council of the European Union (EU) manages to adopt as much as *circa* 70 legislative acts in the framework of the Ordinary Legislative Procedure[1]. This effectiveness defies successive enlargements, heterogeneous national positions, and discrepant degrees of economic and social development among the member states of the EU. The highest official of the General Secretariat of the Council has once attributed it to an extraordinary inventive capacity developed in a repeated learning by doing process (Westlake and Galloway, 2004, preface). The Dutch Prime Minister recently heralded the EU intestate decision-making method as the most successful example of multilateralism and willingness to compromise[2]. They both referred to a particular method for accommodating national differences by means of genuine deliberations (Aus, 2008); it qualifies as a method of bargaining, described by Iklé as a process where explicit proposals are put forward ostensibly for the purpose of reaching agreement on an exchange, or realisation, of a common interest where conflicting interests are present (Iklé, 1964: 3-4). Despite the bargaining involved, the end result is often evaluated as 'reasonable' by the parties[3]. Quoting a German minister of transport describing the atmosphere in the Council, member states often decide to choose a half full glass over a half empty one[4]. Take the conflict that emerged between vodka producing member states after the EU's enlargement to Central and Eastern Europe. Whereas the traditional vodka producing countries use cereals, potatoes and sugar beets; other countries would use different ingredients, while claiming the right to call their beverage with the same name. The compromise reached in the Council on 25 October 2006[5] offered both camps a better outcome than the conflictual status quo, or a likely escalation of the dissent. Whilst the products made of the traditional ingredients would simply be called "vodka", the products using any other ingredient would be named "vodka made or distilled from" the other ingredients used. The solution fulfilled the three prerequisites presented by Bercovitch as the necessary conditions to end conflicts. They are resolved when a discernible outcome has been reached; when conflict behaviours have been terminated; and when a

---

[1] As a co-legislator with the European Parliament. http://eur-lex.europa.eu/statistics/2017/legislative-acts-statistics.html. Accessed 09 September 2018.
[2] https://euobserver.com/political/142074?utm_medium=rss, accessed 09 September 2018.
[3] European Commissioner in charge of agriculture, at the end of marathon negotiations to drastically reform the sugar policy of the EU, *Reuters News*, EU strikes historic deal to shake up sugar policy, 24 November 2005.
[4] *European Report*, Transport Council. Ministers Clinch Road-user Charge Deal, 2 December 1998.
[5] Keith Nuthall, EU: Ministers agree vodka compromise, *Just-drinks.com*, retrieved 27 October 2006.

satisfactory distribution of values and resources has been agreed upon (Bercovitch, 1984). This presentation does not however reveal much about the processes and negotiation conditions necessary to enable and give birth to such compromise. As a matter of fact, a multilateral solution secured in the Council often appears like a black-box from the outside. There is therefore some legitimacy in studying the shrouded internal working of the interstate deliberations, compromise building, and conflict resolution proceedings in the Council. It would contribute to unveil what Aradau and Huysmans call the "politics of techniques, devices, and acts" (Aradau and Huysmans, 2013) that compose the decision-shaping mechanisms in the Council. One can also derive from this preliminary layout the premise that there must be a particular form of internal diplomacy to nurture the effectiveness of the Council; its inventive capacity; and the willingness of its members to compromise.

Every national delegate appointed by a member state to take part in the Council decision-making processes represents in fact the positions and interests of a 'negotiating state' in internal EU negotiations and conflict resolution settings (Jönsson and Strömvik, 2005). Quite distinctly however, the capability of an EU member state to engage in conflicts of interests with other member states is measured more by its relational influence in the interstate processes than by the traditional realistic power capabilities (Thorhallsson and Wivel, 2006). Holsti even reports on a branch of diplomacy literature which holds that the outcomes of bargaining depend less on the capabilities, attributes, or skills of the parties; than upon the 'mood' that develops through interaction between them (Holsti, 1982: 164). They further result from norms of behaviour acquired in common practices among states (Björkdahl, 2008: 17). Building on these patterns of multilateral decision-making, the intended object of study of this dissertation is the diplomacy between EU member states. The dissertation uses three successive optics to contemplate the 'internal EU diplomacy' as an effective institutionalised framework to resolve conflicts in Council negotiations.

The first chapter applies a theoretical and methodological perspective with the purpose to delineate and conceptualise more accurately the diplomatic patterns of the decision-making processes in the Council. The second chapter looks at internal conflicts as situations or occurrences of negotiation; in an attempt to demonstrate the utility, benefits and rewards that the interstate negotiation processes provide to member states.

The final chapter uses a normative angle to formulate propositions destined to the ‘negotiating states’. They aim at the ‘strategic efficacy’ of the member states; in other words, their ability to produce a sufficiently satisfactory outcome or intended result out of the multilateral negotiations inherent to an ‘EU internal diplomatic system’.

Chapter 1 Theoretical Optic on EU Internal Diplomacy

1.1 Research *Rationale*

This section presents the *rationale* of the dissertation by sequentially introducing the questions researched within the EU multilateral negotiation and bargaining playing fields; establishing the study of diplomacy as the general research framework; proposing a research approach qualifying as inductive, empirical, and pragmatic; submitting the main argument of the existence of a diplomatic governance in the EU; and describing the purpose of the research to produce both descriptive and normative results. The section essentially elaborates on the *raison d'être* of the dissertation, and the common thread with the three earlier research pieces published as articles that are submitted in the annexes as integral parts and foundations of this dissertation.

1.1.1 Research Questions

The first research question guiding the dissertation is whether any diplomatic *modus operandi* can be deduced from the observation and analysis of the negotiation processes between EU member states in order to account for the decision-making effectiveness of the legislative output of the Council. As a second question, the dissertation wonders if multi-disciplinary criteria can be used to measure the performance of member states in the EU internal diplomatic system. This question emerges in the wake of Lasswell's own interrogation when applying a political angle to negotiation. In 1936, the author studied the influentials, practices, attitudes, personalities, tactics, and skills in politics; he wondered "who gets what, when, and how" in this context (Lasswell, 1936). The dissertation inquires thirdly if a descriptive analysis can lead to a set of normative propositions aiming at improving the bargaining satisfaction of the national delegations taking part in the decision-making procedures of the Council. The fourth question leading the research is to what extent can the representation and negotiation of national interests inherent to the Council decision-making processes be considered as evidence of a particular EU diplomatic system. The ultimate and overarching question the dissertation aims to address in its conclusions is whether an original diplomatic formula - or prescription - can apply to the EU interstate negotiations; and if the variables in such formula may anticipate the outcome and efficacy of the negotiation strategy used by national delegations to maximise their bargaining satisfaction.

1.1.2 General Research Framework

The general research framework of the dissertation is the study of diplomacy. Diplomacy is approached as a three-pronged phenomenon. It is a process whereby authority and jurisdiction are claimed by specific actors; diplomacy offers also a relational interface between the polities of these actors; third, it is a political playing field involving both representation and governing (Sending, Pouliot and Neuman, 2015). This view converges with the perspective of Sending *et al.* that diplomacy ought to be conceived as a category of analysis on its own; it should be subject to tools that capture how diplomats work in the broader socio-cultural and political-institutional contexts they operate in (Sending, Pouliot and Neumann, 2011). The dissertation basically contributes to the efforts initiated by Jönsson and Hall to fuel the diplomatic theory with more than simply the practitioner's insights or diplomatic history (Jönsson and Hall, 2005). Bjola and Kornprobst equally called students in International Relations (IR) to venture beyond traditionally proposed definitions; and to broaden horizons for studying diplomacy (Bjola and Kornprobst, 2018). There is a 'diplomatic potential' that should be actualised by theorists to better understand how diplomatic practice operates as an independent variable with causal influence on other factors (Steiner, 2004).

The study of diplomacy is purposely restricted in the dissertation to the analysis of diplomatic mechanisms between EU member states that forge the adoption of EU legislative instruments in the Council of the EU. It focuses on the features and traits of the interactions between member states when they decide collectively on legislative actions. It does not extend to the realm of the Union's external relations, where some legislative acts are however also enacted. The dissertation relies on the choices of national delegations and individual representatives that have been reported, collected, and observed in the framework of interstate bargaining and negotiations in the EU. The focal point of the dissertation within the general study of diplomacy is aligned with the views that negotiation forms the integral part and function of diplomacy (Berridge, 2015: 25; Jönsson and Hall, 2005: 3). Whilst the EU political system provides negotiation norms and institutions whereby political struggles are mediated by prevailing institutional arrangements (Bulmer, 1994: 355), it essentially offers member states to transcend the utility of their individual policy decisions.

The calculation of the utility in a given negotiation has first been described as a process in which the least favourable terms of joint agreements or decisions would be measured against the consequences of having no agreement (Iklé and Leites, 1962: 20). All in all, the dissertation studies the utility and the diplomatic patterns of the interstate negotiation system ingrained in the Council of the EU. It follows Shakun's recommendation to political scientists to study any policy-making system by investigating its 'culture' or capability with respect to its goals and values; its structure; the embedded information processes; as well as the strategies, tactics, perceptions, attitudes, and skills of its actors (Shakun, 1975).

1.1.3 Research Approach

The dissertation approaches the diplomatic mechanisms underlying legislative decisions in the Council of the EU through the three converging research optics of an empirical and inductive angle; a pragmatic and praxeological perspective; as well as a combined descriptive and normative viewpoint.

First, the dissertation follows the stages of description, representation, and interpretation prescribed by Devin and Durand for a research in IR that is designed to be both empirical and inductive (Devin and Durand, 2018). The approach relies on fieldwork, with the purpose to find a general logic. It starts with a phase of description of an analytical nature, fuelled by the observation and tracking of the 'participants' in the processes analysed. It implies to detect the interactions or practices between actors, in order to pinpoint their logic and dynamics. In the subsequent phase of representation, the research ought to deconstruct the research theme into empirically identifiable 'social-political-transnational-globalised' realities of the actors. The use of theory to enlighten and represent these realities is pivotal before embarking on the phase of interpretation and making 'broad proposals'.

Second, the dissertation uses pragmatism as the theorising of practice (Franke and Weber, 2011). It follows the wake of new generations of EU researchers interested in leaving the armchair and studying the people and artefacts that make the EU on an everyday level (Adler-Nissen, 2015). It further takes up the invitation of Pouliot and Cornut to foster the dialogue between practice theory and diplomatic studies.

They claim the studies can give useful access to the three nexuses of transformation and reproduction, rationality and know-how, and the technical vs. social dimensions of practices (Pouliot and Cornut, 2015). The pragmatic approach in diplomacy and negotiations draws on 'praxeology' as a conceptual analysis; it establishes the logical implications of preference, choice, and means-end schemes (Mises, 1966: 160). The advantage of praxeology lies in the epistemological foundation it offers to the concept of 'reflective practitioner'. In particular to explain how behaviours are undertaken consciously, with the right knowledge and skills; and with the intention to achieve effectiveness, efficiency, and ethicality (Gasparski, 2017). The approach is essentially geared towards justifying individual and collective behaviours in light of the governance of a diplomatic system. Just like Voss and Freeman who seek to 'know governance', the dissertation is interested in the formulation and articulation of authoritative claims about the nature and process of governance, the classification of actors, the fields of interaction, specific interdependencies, and power relations (Voss and Freeman, 2016).

With the third research perspective, the dissertation seeks to balance the asymmetry between the descriptive and prescriptive (or normative) orientations of diplomacy noted by Sebenius (Sebenius, 2009). The call to fill the gap between the empirical facts and theoretical implications of diplomacy appears notably in the landmark work of Constantinou *et al.* Their 'Handbook of Diplomacy' suggests that both the student and the practitioner of diplomacy ought to remain robustly engaged with normative questions (Constantinou, Kerr and Sharp, 2016: 2). In 1970 already, Lasswell had advocated for a combined normative and empirical approach in a multi-disciplinary fashion (Lasswell, 1970). It remains a useful mission today to convince political scientists to turn their knowledge much more explicitly and effectively to address issues of practice; notably by combining descriptive and normative approaches. This stems vividly from the reflections guided by Stoker *et al.* to make political science 'relevant' (Stoker, Peters and Pierre, 2015). To conclude, the dissertation aspires to be an instrument of knowledge mediation and brokerage. It is centred on activities that bring together decision-makers and researchers, facilitate their interaction, and ultimately influence each other's work (Giest, Howlett and Mukherjee, 2015). "Diplomacy can and should learn from academia in the field of expertise, political-moral values, and the assessment of consequences", says a Professor of diplomacy who happens to be also a former Ambassador (Bolewski, 2007: 6).

1.1.4 Main Argument

In as much as conflicts and wars can be explained by a series of factors, the same method can be used to explain the appearance of peace, or the end of conflicts. Similarly, the dissertation argues that a set of factors and variables organised and structured into an original system of collective decision-making and negotiation are capable of solving the legislative conflicts of member states; bridging their divergences; and accommodating their interests. The dissertation claims that mechanisms of negotiated consensus building among member states enable the Council of the EU to effectively govern without government, through an innovative regime of 'diplomatic governance'. The regime based on cooperation involves representation, codified decision-making processes, and crisis management between members. It seeks effectiveness and efficacy for the member states through formal procedures and institutions, as well as informal norms and values applying to individual representatives considered as 'diplomats'. All these facets closely characterise a playing field where diplomacy meets governance.

1.1.5 Aim and Purpose

The dissertation studies diplomacy in the institutionalised framework of legislative negotiations within the Council of the EU. It seeks to conceptualise EU diplomatic governance by aggregating the factors and variables of representation, negotiation, and bargaining that sustain interstate legislative decision-making processes. It aims to identify and analyse the patterns of deliberation and negotiation among 28 national delegations, in order to understand and anticipate the outcome of their collective decision-shaping and decision-making processes inside the Council. The dissertation intends to describe the multilateral characteristics through praxeology; read them theoretically; and analyse them operationally. It builds and elaborates upon the conclusion reached by Elgström and Jönsson that the gradual turn to a more consensus-oriented decision-making process - which has continued to spread within the EU machinery - is the result of learning, institutionalisation, and environmental pressures (Elgström and Jönsson, 2005: 215-216).

Drawing on the interstate situations and patterns investigated, the dissertation aspires to build a set of normative propositions that should serve as recommendations for national delegates - diplomats - to operate in an efficient, 'lucrative', effective, and politically correct fashion within the posited EU diplomatic governance.

The combined use by the dissertation of situational and normative perspectives, together with its theoretical and practical vantage points, offer an original lens to apprehend EU interstate decision-taking processes that seems as such absent from the traditional literature.

1.2 The Theoretical and Methodological Framework

1.2.1 The Consolidated Theory of Policy Science

Establishing a theoretical and methodological framework to study the patterns of negotiation among EU member states from a diplomatic perspective imposes to cross-fertilise between assorted theories and models. Jacobs notes that although it is widely accepted that the study of diplomatic negotiations ought to be a multi-disciplinary enterprise, the current state of the art in this field does not reflect the need for diversity (Jacobs, 2016: 3). For the specific study of negotiation, Hopmann recommends to approach it as a multifaceted process that cannot be adequately captured by any one particular approach or model. The author advocates a comprehensive framework to analyse any negotiation process in its many dimensions (Hopmann, 1996: 5). Whilst Kemper and Kemper have identified as many as twelve different possible approaches (Kemper and Kemper, 1994), Sarigil proposes to consolidate them into three coexisting models (Sarigil, 2010). The first relies on sheer rationality to describe negotiation and bargaining processes as strategic interactions in which actors bring into play issue linkage, side payments, and credible threats to achieve their exogenously given material interests with the most effective means. In the second – or normative - model, actors are not expected to maximise their exogenously defined interests; but rather to follow institutionalised rules or norms to act appropriately in a form of socio-cultural environment. The third model, labelled as discursive or argumentative, considers communication to be the main component of negotiation. Through deliberation and argumentation, actors attempt to persuade each other of the validity and the justifiability of their claims; their objective being to build common understanding and a reasoned consensus.

Calls to build bridges between the traditional understandings of negotiation and diplomacy have in fact been numerous. Some scholars invite to combine rationalist, constructivist, and sociological toolkits to unpack how institutions and multi-faceted processes are constructed; and how individual actors learn mutually to develop an empathetic understanding when deliberating (Checkel, 1999: 545; Hopmann, 2010). Others encourage to explore the confluence between IR theories and the diplomatic canon; noting for instance that even though the marriage between constructivism and diplomacy might have proven valuable, liberal institutionalism or structural realism were rarely attached to diplomacy. According to Murray *et al.* similarities between common academic pursuits actually abound and await reification (Murray, Sharp, Wiseman *et al.*, 2011: 722). One may actually find in the discipline proposed by Lasswell, as early as 1951, a method suitably multidisciplinary and integrative enough to host the various approaches and models appropriate to study patterns of diplomatic negotiations in the Council. He suggested to undertake problem-oriented policy-making analyses by combining both normative and behavioural sciences into the discipline of 'policy sciences' (Lasswell, 1951). Lewin and Shakun later developed 'policy science' into a fully-fledged scientific framework based on the association of management and behavioural sciences. The former pertain to the optimisation of objective functions, cost-effectiveness analysis, and systems analysis; the latter involve political science, sociology, social psychology, and behavioural theory. In policy science, the authors instruct to begin with a descriptive model of a real-world decision situation in terms of the participants, their values - objectives and goals -, and the decision-making rules that determine the outcomes. It implies basically to describe how the 'culture' of the decision-making system has been designed (Shakun, 1975: 226). The analysis should subsequently become normative, by generating prescriptions and recommendations to attain these values (Lewin and Shakun, 1976). The prescriptions relate also to the behavioural aspects; essentially the perceptions, attitudes and skills of the actors of the system.

The dissertation shares the main theoretical and methodological objectives of policy science. Like policy science, the dissertation aims to unify and apply various disciplines. It equally endeavours to produce an operational description of how a conflict situation is being resolved, in order to formulate and test normative solutions. It further uses also a pragmatic descriptive-normative methodology for policy and system analysis within which normative and behavioural disciplines can be accommodated.

Finally, the underlying intentions of both the dissertation and policy science are to reflect on the effectiveness of a system and the performance of its actors.

1.2.2 The Methodology of Situational Normativism

The dissertation uses situational normativism as a pragmatic descriptive-normative methodology borrowed from policy science[6]; precisely for its capacity to measure performance and better predict the outcome of a decision-making process, or a multiparty negotiation system. Under situational normativism, the outcome and effectiveness of policy-making systems depend on the objectives and strategies of the participants; their values; and the rules attached to the decision-making procedures. These factors and variables can be represented like the constraints of a mathematical programming formulation or equation.

In such an equation, the goals or objectives ('g') of numbered participants ('i') in a specific negotiation situation would be influenced by a series of variables represented by 'x'. The effectiveness of the system is dependent upon the negotiation objectives of the parties being greater than, or equal to, their planned aspirations ('b'); this should be true in a majority of repeated negotiation situations in order to secure the overall satisfaction of the parties. The equation would read as follows:

$$g_i (x_1, x_2, x_3, \ldots, x_n) \geq b_i$$

In the methodology of situational normativism, the left-hand side of the equation corresponds to the means available to achieve the ends of the right-hand side. The performance of policy makers relies on their ability to use strategic and tactical choices to adapt or change the goal, the expected end, and the value of variables. The goals might however not always turn out to be operational or tangible. Rosenau warned indeed that the process of allocating tangible values through the use of tangible means differs significantly from those in which intangible ends and means are involved (Rosenau, 1966). Decision-takers and negotiators can for example have as an objective the sheer protection or promotion of non-operational goals such as values and norms.

[6] In particular Lewin, A. Y., and Shakun, M. F. (1975). *Policy Sciences: Methodologies and Cases*. New York: Pergamon Press Inc.

They are specific and tacit standards of what is acceptable; they include notably freedom and order, independence and interdependence, or justice and mercy. Situational normativism imposes to translate values and norms into operational and measurable constraints or variables. This allows to read the ultimate satisfaction of the actors in light of the result of the equation.

Factoring all variables into a policy-making equation has been made easier by Bercovitch and his categorisation of the factors inherent to negotiation and bargaining situations (Bercovitch, 1984). The variables are either personal, role based, situational, or interactional. Personal factors include *inter alia* the history of the individuals, their personality, their motivation, and their attitude. Role factors relate to loyalty, face-saving mechanisms, accountability, and commitments; they determine in a way the decision latitude (or margin of manoeuvre) of a negotiator. Situational factors pertain to the logistics; the number of participants; the type of agendas; the issues (tangible and intangible), and their prominence or salience; and interpersonal principles such as secrecy or openness in transactions or exchanges. Finally, interactional factors involve the distribution of power, communication, motivation, attitudes, and the use of social influence strategies based on rewards or coercion. Bercovitch claims that there is a strong visible relationship between these variables and bargaining effectiveness (Bercovitch, 1984: 132). The next sections rely on situational normativism to identify the same negotiation constraints or variables in the multilateral negotiation system of the Council. This system is purposely conceptualised as the 'EU diplomatic governance'.

1.3 Conceptualising EU Diplomatic Governance

This section maintains that legislative interstate decision-shaping and decision-taking processes in the Council amount to diplomatic processes that are framed in an institutional context comparable to any governance system driven by effectiveness. It starts by qualifying and positioning the negotiations among member states in the existing typology and definitions of diplomacy. A similar undertaking is then operated to delineate the concept of governance; before marrying it with diplomacy, in order to capture the essence and *modus operandi* of negotiations in the Council.

1.3.1 Diplomatic Perspectives

Distinguishing between different conceptions of diplomacy to better define the concept has always been challenging because they may actually overlap (Sharp, 1999: 137)[7]. A broad conception of diplomacy pictures it as the expression and conduct of statecraft, foreign policy, or IR in general. Strictly speaking, diplomacy is the practice of representation of a state in the hands of accredited officials. Diplomacy relates however also to a set of skills and abilities to communicate and negotiate. This section intends to dig into these three preliminary conceptions to compile the features of diplomacy that can more specifically account for the patterns of negotiation in the Council. One description quite close to the 'Brussels' reality actually originates from a French encyclopaedia of 1798. It defines diplomacy as the "*Science des rapports, des intérêts de Puissance à Puissance*"; with the explicit purpose to establish cooperation among nations in order that, through common action, advantages may be obtained which no isolated state could command if relying merely on its own resources (Leira, 2016: 33-35). Even earlier and more appropriately, Cardinal de Richelieu vented the merits of continuous and never-ending negotiations as long as there was no agreement in sight, if only to secure future benefits. He invited to negotiate relentlessly: « *Négocier sans cesse, ouvertement ou secrètement, en tous lieux, encore même qu'on n'en reçoive pas un fruit présent et que celui qu'on en peut attendre à l'avenir ne soit pas apparent, est chose tout à fait nécessaire pour le bien des États* » (Hildesheimer, 1995: 265,). The logic of collective management and distribution of benefits acknowledged at this stage points at the definition proposed by Bjola and Kornprobst. For the authors, diplomacy can be viewed as the institutionalised communication among recognised representatives of internationally recognised entities through which these representatives produce, manage, and distribute public goods (Bjola and Kornprobst, 2018: 3). This perspective can be complemented with Bolewski's viewpoint that diplomacy orchestrates and moderates the dialogue between states through the art and craft of communication, skills, tools, procedures, methods, norms, and rules as social practices (Bolewski, 2007: 15). Such practices are crucial to define diplomacy for Jönsson and Hall. The authors claim that diplomacy should be seen as an institution, understood broadly as a relatively stable collection of social practices consisting of easily recognized roles.

---

[7] Categorisations of conceptions of diplomacy can be found notably in Sharp (1999); Berridge (2015); Leira (2016); Hamilton and Langhorne (1995); and Adler-Nissen (2016).

The practices are coupled with underlying norms, rules, or conventions that govern the relations among the actors and define their appropriate behaviour (Jönsson and Hall, 2005). In this context, the value of a diplomat does not only lay so much in any technical knowledge, but rather in the ability to abide by the norms; and to communicate, negotiate, and persuade (Hamilton and Langhorne, 1995: 258). Adler-Nissen deems that diplomats should be viewed as agents of communication, negotiation, and advocacy of national interests (Adler-Nissen, 2016). For Latour, they should however not be regarded only as advocates of the principles and interests of the 'masters' or entities they represent; because they are also directly interested in formulating other versions of their masters' ideals (Latour, 2013: 483-484). When negotiating, they may need to formulate alternative positions, and possibly take distance from the strict guidelines and instructions of a national mandate. They could do so for the very purpose of securing a benefit in a final agreement not initially envisaged by their principals or masters.

A priori, the more secret, confidential, or informal a negotiation would turn out to be, the larger the margin of manoeuvre of a diplomat should be *vis-à-vis* home instructions. Ulbert *et al.* note the effectiveness of private *in camera* settings during negotiations; in particular in circumstances where actors would have not only an interest to bargain egoistic interests, but also motives to prefer mutual cooperation. It allows them to explore potential compromises, and to 'think out aloud' about possible negotiating solutions (Ulbert, Risse and Müller, 2004). Diplomats can then more easily exercise the necessary means of promises, appeals to interest, attempts at striking a bargain, and 'cajolery' (Butterfield, Wight and Bull, 1966: 17). Murray describes 'secret diplomacy' as the conduct of negotiations out of the view of the media; behind closed doors; in a quiet, back-channel or back-door setting. It is also a versatile, strategic, and tactical state device - particularly in high-profile, media-heavy, intractable conflicts - when neither party may wish to concede anything publicly for fear of appearing weak or 'losing face' (Murray, 2016: 20-21). Closed-door sessions have frequently yielded offers that are less aggressive than public or open-door positions (Perry and Samuelson, 1994: 358)[8]. Pammen confirms that, in some cases, the ability to reach agreements in private has a lower cost than the embarrassment of an actor conducting an about-turn or *volte-face* in public; or an actor significantly out-performing others during the negotiations (Pammen, 2016: 154).

[8] The authors refer in particular to the negotiations and agreement on mutual recognition between Israel and the Palestinian Liberation Organisation.

In Sharp's historical analysis of the various forms of secrecies, two specific types might have some resonance with EU internal diplomacy. 'Strategic secrecy' relates to alliances cemented by agreements, their content, and the fact that they have been reached. 'Operational secrecy' pertains to undisclosed routine negotiations or related information (Sharp, 2016). The combination of strategic and operational secrecies may well resemble the 'efficient secrecy' proposed by Kurizaki. He argues that private communication can basically handle threats, tactics, and information exchanges as effectively as public proceedings to compel a party to concede (Kurizaki, 2007: 555-556). When merging the diplomat's duty to take distance from 'home', with the mechanisms of secrecy described above, one comes very close to the description of 'secrecy diplomacy' intended to be used here as proposed by Holmes. It is diplomacy kept secret from one's own government, which also involves deriving the secrets of others (Holmes, 2016: 51).

1.3.2 Governing Governance

A journey into the world of governance is equally long and winding before reaching a relevant understanding applicable to the institutional aspects of EU interstate negotiations. At the most general level of abstraction, governance is not 'government' (Bartolini, 2011: 7). It is a continuing process through which conflicting or diverse interests may be accommodated, and co-operative action may be taken. The process includes formal institutions and regimes empowered to enforce compliance; as well as informal arrangements that people and institutions have either agreed to, or perceive to be in their interest (Commission on Global Governance, 1995). Governance collates intentional binding activities that create order beyond national boundaries; in a multilevel system involving both regulative and distributive interventions (Rosenau, 2009). In essence, governance groups structured ways and means by which the divergent preferences of interdependent actors are translated into policy choices to "allocate values" (Kohler-Koch and Eising, 1999: 4). Governance can thus be understood as institutionalised modes of co-ordination consisting of both structure and process (Börzel, 2010: 194). Wolf even sees in it a 'deep structure' underlying strategic interaction among governments (Wolf, 1999).

For the purpose of this dissertation, governance will be used as one set of the rules, processes and practices that affect how powers are exercised at the European level (European Commission, 2001).

By focusing on Council operations, it leaves out the private, non-governmental, and social actors; these actors are traditionally associated with the EU regulatory output when analysing the EU from a multilevel or informal governance perspective[9]. Their positions and interests are here presumed to be channelled through, and represented in, the individual negotiation strategies used by member states in the Council. It matches a restricted view of governance which Héritier describes as a form of political steering where non-hierarchical modes of guidance - such as persuasion and negotiation - are employed (Héritier, 2002). The dissertation apprehends governance as norm generating practices of 'governing'; an exercise of authority; and a mechanism of decision-making using both monetised and non-monetised exchanges, commands, persuasion, and solidarity (Ansell, Levi-Faur and Trondal, 2016). It is consistent with the verdict of Börzel that the EU is characterised less by network governance and private interest government, than by inter- and trans-governmental negotiations (Börzel, 2010). It equally fits with Bulmer's perception of a predominantly regulatory mode of governance in the EU that is characterised by disaggregated and interest-oriented politics (Bulmer, 1996: 21). The accommodation of interests of parties is a central element of the latest conceptions of 'informal governance' in the EU. They consider negotiations in the Council as mechanisms to adopt collective norms that need to depart from the formal rules in order to accommodate a troubled partner facing the excessive costs required to adjust domestically to a European measure (Kleine, 2013: 5). Some of the informal modes of governance may for example include voluntary targets, monitoring mechanisms, open coordination, flexible implementation, or differentiated and delayed commitments. For Kleine, political action and legislation may in fact need to be enabled by differentiations and situational flexibility (Kleine, 2013: 36). For Héritier, it is obvious that governance frames the processes of consensus building in the Council; it is a means for achieving goals by promising to guarantee the effectiveness of policy implementation not assured by mere coercion (Héritier, 2002; Héritier, 2003).

To further enhance the operational perspective of the concept, the journey needs of course to venture into the principles of efficiency and good management traditionally associated with governance.

[9] Christiansen *et al.*, define informal governance as the production of authoritative decisions which are not produced by a single hierarchical structure, such as a democratically elected legislative assembly and government, but instead arise from the interaction of a plethora of public and private, collective and individual actors (Christiansen, Føllesdal and Piattoni, 2003: 6).

According to Badie, the intent of 'governance' was not only to signify that the word 'government' had been disqualified through its association with the state; the intent was also to highlight a connection with the age of management (Badie, 2012: 115). Some of the definitions collected by Rotberg from the literature over 'good governance' may in fact have some interesting bearings with the regulatory effectiveness of EU internal diplomacy. Good governance is equated to impartiality; where no party is a favourite or has precedence over the other when exercising public authority. Similarly, the principle rests on political equality and fair competition. It relies also on bureaucratic capabilities in a system of traditions, institutions, values and policies. Rotberg concludes by defining governance as the performance of governments to deliver specific articulated political goods; it is the effective or ineffective distribution of expected services to whatever political jurisdiction (Rotberg, 2014; Rotberg, 2018).

1.3.3 Diplomatic Governance

It can be suggested from the previous sections that both diplomacy and governance are institutionalised processes which, in a combined fashion, have the potential to account for routine legislative negotiations in the Council. In order to prepare their merger into the concept of diplomatic governance, and apply it to Council operations, this section derives some broad features and attributes of Council governance and diplomatic processes. It draws mainly on theoretical studies and the academic debate over European political integration because they also apply after all to decision-making situations in which interdependent actors have to reach a common decision; with no monopoly of power, but where deliberations take place in conjunction with Law (Eriksen, 2014: 30).

From an institutionalist perspective in particular, institutions come to exert an independent effect on the negotiating behaviour and policy choices of member states. One can notice the behavioural impact of standards of appropriateness established by the normative and policy commitments of the EU, regardless of the divergent preferences member states have on particular policy issues. Institutionalists note for example that member states have formally and repeatedly identified as the principal goals of EU foreign policy and external relations several principles such as the support for democracy and the rule of law, human rights, conflict prevention, the strengthening of multilateral institutions, free trade, or the promotion of development. In recent years, environmental protection has also emerged as a substantive EU norm (Thomas, 2009).

For Jones and Clark, behaviour in the Council is conditioned by a highly evolved system of formal and informal rules and procedures. They claim that analyses focusing restrictively upon the actors' preferences and their maximisation would ignore important structural elements such as distinctive working practices and bargaining styles; the pragmatic search for consensus; institutional memories; and scripts replete with historically embedded values, procedures, and constraints (Jones and Clark, 2002; Clark and Jones, 2011). These elements appear to constitute one of the 'diplomatic cultures' described by McConnell and Dittmar; where human encounters between representatives would enable communication, cooperation, and a group identity (McConnell and Dittmar, 2016: 109).

Sending *et al.* argue that the representation of national interests should be coupled to governance to appropriately account for the face of today's diplomacy. Whereas representation is organised around the idea of advancing the interest of a group - which necessitates communication with others, governing involves changing other actors' behaviour to achieve certain objectives (Sending, Poulot and Neuman*,* 2011: 23). For Eriksen's normative perspective, political integration requires justice through impartiality; this principle infers that a basis for agreement should be established with the objective to be acceptable from all points of view. It implies that the ability to solve common problems and to resolve conflicts must overrule self-interest maximisation (Eriksen, 2014: 30). One should not just witness in the EU mere 'habits' of representatives getting used to convene and decide consensually in an involuntary and effortless motion; member states are in fact deeply locked in controlled interstate mechanisms (Parsons, 2002). They do not only operate cost-benefit calculations of strategic nature for any choice following an instrumental rationality; there is an additional value rationality imposing some norms when making that choice (Hopf, 2010). Thomas puts forth the procedural norms developed informally over time by member states through practice. They are regular communications and consultations, including for example the expectation that member states will not publicise policy commitments before the Union has deliberated; confidentiality in the use of shared information; and decision-making by consensus, including the avoidance of Qualified Majority Voting even when permitted by treaty (Thomas, 2009).

Any initial attempt to conceptualise EU ‘diplomatic governance’ at this stage should posit an institutionalised system of formal and informal decision-shaping processes engaging EU member states in the representation of their national preferences within routine and organised consultations; all subject to a mutual compromise policy dictated by norms of bargained consensus.

Chapter 2 Descriptive Analysis of EU Diplomatic Governance

This chapter contributes to formulating a policy science equation applicable to the choices faced by member states engaged in EU diplomatic governance. It uses for that matter a descriptive situational analysis of the negotiation occurrences in the Council. The chapter examines the operational and non-operational variables inherent to interstate negotiations. It follows the recommendation of Gray to investigate four families of variables when studying multiparty negotiations. They involve the perceptions of the parties, the structure of the negotiation, interstate processes, and political variables. Gray claims that, by looking at the intersections of these sets of variables, the researcher can capture complex factors such as the formation of identities, coalitions, agenda-setting, or the expectation of fairness (Gray, 2011). The chapter further applies Crump's five-part method to analyse complex negotiations (Crump, 2015). The next sections will accordingly explore, in no specific order, a series of variables relating to the preparation and architecture of a negotiation, its parties and how they align; the context or policy-making governance; the relational dynamics between the member states or their representatives; the process of decision-shaping and compromise building; and the institutional rules and norms in force.

2.1 Strategic Diplomacy

The first variables impact the preliminary phase of the representation and negotiation of national interests; they pertain to the mandate entrusted to the national delegates - the 'diplomats' - as part of any global negotiation strategy. The next sections describe how the mandate of negotiation reflects a chain of fundamental choices regarding the intensity and sustainability of the national 'political will' to negotiate; the thresholds ensuring both the effectiveness of the strategy and the ultimate satisfaction for a national delegation; the assessment of the national needs, the opportunities, and the possible rewards of cooperation by which potential rivals become attractive partners; and the conditions to use and rely on the collective bargaining power of alliances established with the said partners.

2.1.1 General Strategic Resolutions

Negotiation is a purposeful communication consisting of strategies developed and implemented by parties to pursue or defend their interests (Avenhaus and Zartman, 2007). There are essentially three strategic motives inciting member states to defend their interests in the EU decision-making through the 'uploading' and negotiation of their national preferences (Börzel, 2005: 65). First, national governments intend to address problems that preoccupy their constituencies but cannot be effectively dealt with at the domestic or national level. Second, they aim to reduce the need for legal and administrative adaptation when incorporating into the national structures and order the policy-making measures agreed at the EU level[10]. Finally, their objective is to prevent competitive disadvantages for their domestic economic actors possibly subject to higher national standards. Lax and Sebenius submit that any decision to negotiate is strategic in essence; it relies on three calculations involving acquisition, effectiveness, and efficiency. Acquisition refers to the process of determining the value and interests, or finding benefits, where the desired ends are unavailable to the individual party. The calculation of effectiveness adverts to the need to work with other parties in order to create that value - and accomplish certain goals - when parties cannot achieve their ends in isolation. Finally, parties seek the efficiency of reducing transactional and logistical costs by working together on a reiterative basis in a concerted or institutionalised way. These three needs-based calculations – elusive ends, scarce means, and reducible costs – drive parties to work together over a short or longer time (Lax and Sebenius, 1986).

The 'Triple M' model proposed by Ohlson to explain the end of conflicts also applies to the strategic choices faced by member states. First, a 'Mutually Hurting Stalemate' alerts the parties to the need to negotiate and change conflict behaviour. 'Mutually Enticing Opportunities' then generate growing trust and horizontal legitimacy between the negotiating parties; a gradual change in attitudes; and confidence in the process[11]. Finally, 'Mutually Obtained Rewards' lead to a vertical legitimacy of the negotiation, whereby domestic benefits and national preferences can be capitalised (Ohlson, 2008).

---

[10] Arregui and Thomson maintain that governments generally prefer to avoid the adjustment costs involved in changing existing policies. These adjustment costs include investments in new policies and procedures to bring about policy change, as well as the effects of political opposition to change (Arregui and Thomson, 2014: 694).

[11] Wendt and the constructivists suggest it is a process of 'social learning' between the parties that may transform conflictual relationships; it occurs through mutual 'reflected appraisals' whereby parties would view each other as potential partners instead of rivals (Wendt, 1999).

This model somehow represents the engagement of member states in Putnam's two-level game of concomitant internal and external negotiations (Putnam, 1993); it should be complemented with the third level playing field made of the interstate alliances proposed by Knopf (1993). The weight and success of the three phases will influence how a negotiation evolves along a continuum from tough and oppositional bargaining, to cooperative and joint problem-solving (Hopmann, 2010: 104).

Bargaining and problem-solving refer to two different paradigms in the study of negotiations (Jönsson, 2002). At one end of the spectrum, bargaining can be understood as a '*bazaar*-like' haggling based on the exchange of offers and counter-offers, concessions and retractions. Negotiation processes comprising bargaining include primarily conflicts over positions; they have been named distributive negotiations (Raiffa, 1982; Walton and Mckersie, 1965; Warntjen, 2010). At the opposite end, joint problem-solving processes are termed integrative negotiation situations. They always contain a distributive component; but unlike purely distributive situations in which parties divide a fixed amount of resources, integrative situations are characterised by their variable-sum outcome and their focus on interests (Thompson, Wang and Gunia, 2009: 528-529). The empirical studies reported by Olekalns *et al.* show that, broadly speaking, negotiators oscillate between competitive and cooperative focal points (Olekalns, Brett and Weingart, 2003). The strategic decision to lean towards the distributive or the integrative end of the negotiation spectrum is somehow comparable to the decision facing the parties confronted to the 'chicken dilemma' in game theory. They will need to assess whether the deal - or negotiated agreement - in any particular situation is better than no deal (Hardin, 1982: 168-169). Specifically, the calculation should factor in the consequences of failing to agree, or the prejudice of ending up without a negotiated agreement. This translates into comparing the value of a member state's best alternative solution to the costs and benefits of the last compromise text discussed within the Council[12]. Formulated differently, the interstate negotiation system depends primarily on the magnitude of the costs that member states would endure either in the absence, or failure, of a collective negotiation.

[12] This perspective draws on the concept of 'Best Alternative to a Negotiated Agreement' (or BATNA), developed originally by Fisher and Ury (Fisher, Ury and Patton, 1997).

This situation is similar to any bargaining occurrence, where one or more parties must prefer bargained outcomes to a situation where there would be no agreement. Basically, each party has to agree on the ranking of the outcomes and mutually preferable agreements (Fearon, 1998: 274).

In their assessment of Council processes specifically, Elgström and Jönsson conclude at a predominantly integrative problem-solving mode of negotiation that is offering recurrent substantial value higher than the possible benefits of unilateral actions. The authors identify further three other defining characteristics of the Council mode of negotiation. It is based on a community of values; a high degree of institutionalisation; and a curious blend of informal and formal processes (Elgström and Jönsson, 2000). Such operative mode reduces conflict by organising and structuring the negotiation occurrences. For Schneider, it is especially supposed to allocate benefits according to the member states' needs. Needs-based rules provide a stable mode of distribution and prevent repeated bargaining over the same issues. Schneider further warns however that international organisations do not prevent, or even fully resolve, distributional conflict. Instead, they serve as bargaining fora that help states manage conflict effectively (Schneider, 2011). Such rules belong to the category, established by Meerts, of diplomatic norms and values that regulate negotiation behaviour not only to overcome cultural and other differences, but also to create opportunities for effective interstate flows (Meerts, 2011: 162). These multilateral negotiation patterns should be enriched with the four features proposed by Dupont and Faure to describe any negotiation process. It is a strategic analysis through game-theoretical matrices; a series of organised sequences or phases; structural power manifestations; and a 'persuasive debate' operating as a possible counter power (Dupont and Faure, 2002). Their standpoint supports the recommendation by Lewicki *et al.* to refrain from viewing and using power as the primary foundation of any strategic decision on whether to predominantly bargain or not in a negotiation. The authors rather see more evidences of success for strategies taking account of the means and resources to influence processes and interpersonal relations (Lewicki, Barry and Saunders, 2015). It is even more true in reiterative negotiation processes where an abuse or miscalculation of power may create a precedent[13]; and induce the other parties to change behaviour, retaliate disproportionately, or lose interest in the negotiation process.

[13] A precedent in negotiation is defined by Crump as a past behaviour, decision, or event that becomes relevant to guide the decision or behaviour of the other negotiating parties in future similar situations (Crump, 2016: 89).

The strategic decision to enter negotiation and use the appropriate level of bargaining is traditionally captured by the diplomatic formula of the 'political will' to negotiate. While this decision is dependent upon the quality and value of a member state's 'Best Alternative to a Negotiated Agreement', the rest of the chapter will show that the outcome of a negotiation itself is determined by many other factors.

2.1.2 Consensus Building

Multilateral negotiations between member states of the EU are interstate processes combining diplomacy politics, institutional structures and cooperative regimes, a playing field for salient events, a specific atmosphere, different cultures, and linkages between recurring negotiations (Druckman, 2009: 434). The logic of this system of negotiation relies on the constant search for strong or reasoned consensus among the parties (Naurin, 2007a; Eriksen, 2006; Naurin, 2007b; Reh, 2009). It materialises in the accommodation of the preferences of member states with compromise solutions aiming at balancing their interests; whether salient or less salient; immediate or delayed. Counter intuitively, an asymmetry in the preferences, priorities and resources of parties negotiating may actually enlarge the scope for package deals by way of 'circular barters' (Touval, 1989: 165). When the negotiation is in fact one of many similar repeated encounters, the negotiators may be able to mitigate claiming in subsequent rounds by agreeing initially on a principle for division of gains (Lax and Sebenius, 1992: 58). The immediate and programmed gains of an interested reiterative cooperation are usefully embraced by the theoretical concept of the 'Expectation of Future Negotiation Interaction' (EFNI) developed by Patton and Balakrishnan. They demonstrated that bargainers in EFNI contexts are more likely to be inclined to negotiate with a harmonious disposition; to seek solutions that benefit all parties; as well as to lower their aspirations (Patton and Balakrishnan, 2010). Negotiation research shows further that negotiators who had a prior relationship with their opponents, or who anticipated one in the future, expected more cooperative processes than those for whom the negotiation task was a once-only encounter with the other party (Halpert, Stuhlmacher, Crenshaw *et al.*, 2010).

The intense and continuous interaction of government representatives in the Council has resulted in a cooperative negotiation mode that is characterised by a reflex to seek apparent consensus among all member states, even though a qualified majority would suffice to take their joint decision (Häge, 2007; Hayes-Renshaw and Wallace, 2006a;

Hayes-Renshaw and Wallace, 2006b). Apparent consensus is understood as the mode of collective decision-taking in which discussions end when it becomes clear that a proposal is not opposed (Dehousse, Pasarín and Plaza, 2014). Many analyses of the voting records of the Council have confirmed that a 'culture of consensus' governs interactions between member states. Data of Heisenberg have for example shown that only nineteen percent of the decisions adopted between 1994 and 2001 have been adopted by using, or as it were imposing, the voting procedure (Heisenberg, 2005: 72). Smeets speaks of 'procedural consensus' when member states decide not to express opposition or contestation in the course of Council bodies deliberations (Smeets, 2016). The number of cases where a decision has been imposed by a vote to a non-blocking minority of member states even goes down to ten percent in the studies of Mattila and Lane (Mattila and Lane, 2001). After inspecting the adoption of 118 legislative Proposals in the Council, Arregui and Thomson corroborate that the dissent of delegations at the voting stage is rare; even when the proposals are controversial, or if they face a high salience and opposition. Member states refrain from dissenting explicitly at the voting stage, even when some of their policy demands have not been met (Arregui and Thomson, 2014). Van Roozendaal *et al.* equally claim that minimal winning coalitions are a rare phenomenon in the Council (Van Roozendaal, Hosli and Heetman, 2012).

It is worth noting that the consensus driven decision-making has not been altered by the enlargement of the EU and the increase in numbers of the negotiating parties (Thomson, 2011; Naurin and Wallace, 2008). After studying data on the number and types of legal acts produced by the EU between 1994 and 2014, Toshkov reports that even though enlargement has possibly added a new dimension of contestation in EU legislative decision-making, it has only involved six policy fields and a relatively small share of all legislative negotiations in the Council (Toshkov, 2017). In their examination of eight policy sectors between 1984 and 2012, Citi and Justesen observe an obvious rise of the heterogeneity of national positions with the successive enlargements; this increased diversity did not however alter the consensus building mechanisms or the coalitions of member states established to defend certain policy preferences (Citi and Justesen, 2014). Sannerstedt offers a partial conclusion based on his investigation of the negotiation experience of Swedish representatives in Council Working Parties. They confirm that the commitment to the goal of unanimity is not only lip-service; voting down a minority actually rarely happens.

Swedish negotiators confirm moreover that Council negotiations are of a cooperative and problem-solving character, essentially because delegations compare the value of their BATNA to the possible payoffs they can derive jointly with the other delegations experiencing the same fate. Mutual trust and mutual understanding appear to characterise the relations between national representatives; the use of competitive negotiating strategies such as threats, bluffs and cheating seems rare. Sannerstedt ultimately stresses also that unanimous solutions are sought, even when a decision could have been taken by a qualified majority vote (Sannerstedt, 2005).

Høyland and Wøien Hansen support the view that the commitment to consensus building is strategic and calculated; member states do not join the consensus to the detriment of their national preferences. Their analysis rules indeed out that governments would vote dramatically against their initial positions when acting consensually. The calculated equilibrium of national interests and collective outcome mirrors the oscillation between distributive and integrative approaches to negotiation (Høyland and Wøien Hansen, 2014). This leads the section to propose as a conclusion that the consensus building processes observed and recorded in Council negotiations is of interest to the national delegations. This 'interested consensus' conventionally aims to accommodate the highest number of interests and policy preferences of the highest number of delegations. Its quintessence is to reduce as much as possible damaging unilateral bargaining objectives, and any resistance to a final negotiation compromise. The 'interested consensus' seeks therefore to harvest the salient interests of some member states; the less salient interests of other member states; favourable provisions rewarding the concessions; the collective memory of payback time to the biggest losers; and a shared feeling of a fair deal throughout Council negotiations iterations.

2.1.3 Coalitions and Alliances

This section explores the fate of alliances and coalitions created or joined by delegations interested in increasing their bargaining power during the 'interested consensus' building processes. The individual and joint decision-making logics explored so far lead to presume that alignments are pure instruments of negotiation strategies designed to achieve specific objectives and benefits. Any national delegation would calculate whether to join, align itself, or maintain its proximity to the most influential coalitions and member states in the Council.

Considering that alliances revolve around mutual interests in a prolonged way, while coalitions are more about sharing the same line of action or voting in a specific situation (and on a temporary basis), one would expect to witness strategic coalitions rather than alliances within the Council. On a general note, coalitions of interests are not expected to be the same across all policy issues (Cardinale and Landesmann, 2016: 35). An extensive literature has attempted to find out alignment patterns between member states by analysing the votes cast in the Council. For instance, a partisan or political alignment leading to a left-versus-right division among the member states is only confirmed by the research of Hosli *et al.*; it materialises by left-wing governments tending to vote negatively more often than countries with right-wing governments (Hosli, Mattila and Uriot, 2009). In contrast, Tallberg and Johansson conclude that needs-based coalitions are more numerous in Council meetings than purely party-based coalitions (Tallberg and Johansson, 2008).

The prevailing view is that socio-economic differences and needs constitute the dominant cause of political cleavages or any regular coalition in the Council. Zimmer *et al.* identify for instance the group of the 'subsidy-dependent member states'; its members would notably align to resist deeper consumer-friendly legislation or trade liberalisation (Zimmer, Schneider and Dobbins, 2005). By the same token, the less economically favoured member states, both from the south and the east, prefer for the most part extensive regulation of the market. Northern member states tend *per contra* to advocate greater competition in general (Thomson, 2009). According to Eichener, a small group of member states can easily block any attempt of harmonisation at a high level of protection that would force them to bear the economic and political costs of adjusting their weaker regulatory systems. These member states derive indeed considerable comparative cost advantages essentially from lower levels of social rights, occupational safety, and environmental protection (Eichener, 1997: 592). The geographical voting cleavage is further suggested by several authors who point at the north/south positioning of the alignment; the old/new EU member states' division; and the north versus south-east divide (Kaeding and Selck, 2005; Naurin, 2007a; Mattila, 2009). The final voting consistency that could account for such recorded mappings might simply be the 'centre–periphery' division observed by Laatsit and Kaeding in their collection of patterns of cooperation among national representatives (Laatsit and Kaeding, 2009).

The concrete benefit from any resilient economic alignment is partly neutralised by the study of Golub. The author studied 162 legislative negotiations and their final outcome. His purpose was to research whether a camp of aligned net contributors to the EU budget would exist; by investigating if 'wealthier' states had benefitted from concessions, flexibility, or automatic *quid pro quo* from EU budget beneficiary delegations aligned as another camp. He discovered that net budget contributors to the EU budget got little or nothing in return for their money from net receiving member states in terms of concessions or aligned votes. In other words, there was no significant alignment between the two camps, because no evidence would prove that votes might have been 'bought up' by the 'wealthier' states (Golub, 2012a).

To conclude on how member states might align their positions and actually develop more profound and strategic coalescing patterns, this section turns to the explanatory model of Jensen. His model plainly suggests that voting behaviour is determined by whatever deal a member state is engaged in at a moment in time (Jensen, 2010). Member states appear to behave as theory suggests; they participate in temporary coalitions designed to increase the payoffs that their individual members could derive on a particular issue. The coalition is simply dissolved as soon as the issue is settled (Polzer, Mannix and Neale, 1998: 43).

2.2 The Diplomats

The presentation of negotiation processes as essentially some interest-based, rationalist, or economically motivated interactions, has been widely challenged; not only by almost every national representative encountered in the margin of Council proceedings, but more significantly by research. It has become undeniable that the individual, interpersonal and psychological factors play a determinant role in what Curhan *et al.* call the 'subjective outcomes' of negotiations (Curhan, Elfenbein and Xu, 2006). Brett and Thomson consider that the essential variables inherent to negotiations are not only human or psychological; with the personality of the actors; their personal motivation, emotions, and inclination to trust. They are also social-environmental; with factors including reputation and relationship, gender, status, and culture (Brett and Thompson, 2016).

Whilst another author captures this set of subjective factors as the 'soul' of the international negotiators (Bernard, 2009), Brooks and Rose refer to it as their 'negotiation orientation' (Brooks and Rose, 2004). This orientation translates for example into the natural inclination to cooperate, show emotions, be transparent, or communicate extensively. It is close to impossible to find a national representative who would argue that Council negotiations are hermetic to interpersonal and individual factors; or that these factors have no impact on the outcome of group decision-taking mechanisms in the Council operations. This section explores some of the fundamental parameters relating to the representatives as individuals or persons; convinced like Filtzmoser *et al.* that negotiation processes involve a substantive, a communication, and an emotional dimension (Filzmoser, Hippmann and Vetschera, 2016). The very suspicion expressed by the first President of the European Commission[14] at the early days of the Council's work almost seems to acknowledge the possible interference of individual factors in legislative proceedings. For Walter Hallstein, a fundamental danger was that the responsibilities, which the Treaty unequivocally confers to the ministers, would slip to functionaries to whom they do not belong (Salmon, 1971: 712).

2.2.1 Relational and Institutional Dynamics

Every negotiator has a different natural inclination to cooperate, show emotions, be transparent, or communicate extensively. This 'negotiation orientation', or psychological predisposition of the negotiator, crucially conditions the relation with the counterparts. The experiments of Curhan *et al.* on the build-up of individual perceptions and reiterative feelings, confirm that negotiators construct a psychological predisposition in negotiation processes (Curhan, Elfenbein and Xu, 2006). Negotiators who have experienced greater subjective value with perceptual and emotional outcomes in a negotiation, achieve greater individual and collective negotiation performance. They also grow an intention to negotiate again with the same counterpart in the future. The results of the research suggest therefore that positive feelings matter, and not just positive outcomes of earlier negotiations. George *et al.* demonstrated that positive outcomes in frequent exchanges with the same counterpart are sources of trust, positive affect, and affective commitment to this party (George, Jones and Gonzalez, 1998).

[14] Hereafter referred to as "The Commission".

Barry *et al.* reference a study with a mirror focus on the negative emotion experienced by angry negotiators after earlier rounds of negotiation. They turned out to show less regard for their opponent's interests; distort their judgments of the other party's interests; and ultimately reduce possible joint gains (Barry, Smithey Fulmer and Goates, 2006). Negative emotions in negotiation processes originate in particular from feelings of losing face or a sentiment of unfairness. The 'face' is an individual's most sacred possession because it associates with one's self-esteem (Deutsch, 1961); it can tip the person's behaviour away from cooperation (White, Tynan, Galinsky *et al*., 2004). Many situations have been reported where national representatives have felt ignored, isolated or coerced by chairpersons operating on behalf of a rotating Presidency eager to rapidly come to an agreement. Some of these negotiators have declared or even concretised their intention to retaliate; either in forthcoming rounds of negotiation, or when they would themselves hold the procedural and practical power of the Presidency. The representative of a not so large member state once admitted that he voted against the compromise text presented by the Presidency only as an act of personal revenge; he was confident he could later convince his capital to follow his line.

Whilst the consensus building method in the Council is designed to avoid the isolation of delegations, it can therefore also be considered as an indispensable mechanism aimed to prevent national representatives from losing face and feel irreparably affected in the course of reiterative negotiations.

In theoretical terms, the Council is one densely institutionalised context where every argument needs to be heard to respect the role of the individual actors; it is a system "in which negotiations take place, provide a set of already agreed-upon norms, rules, and decision-making procedures which serve as reference points, or *Berufungs-grundlagen*, in an argumentative discourse" (Ulbert, Risse and Müller, 2004). National representatives are in a way involved in the 'communicative actions' modelled by Habermas. They are participants not primarily oriented towards achieving their own individual success; they pursue instead their individual objectives under the condition that they can coordinate or harmonise their plans of action on the basis of shared definitions of the situation (Habermas, 1981: 385-386).

Communicative actions, sustainable relational dynamics[15], and reiterative negotiations, are processes that all rely on trust. The term collates all confident positive expectations regarding the conduct of the other representatives; any conduct negatively perceived will consequently yield distrust (Lewicki, McAllister and Bies, 1998; Shapiro and Bies, 1994). Lewicki and Wiethoff distinguish usefully between a 'calculus-based trust' (CBT) and an 'identification-based trust' (IBT). The CBT is most often associated with workplace relations, where people tend to operate on a reward or punishment system. In contrast, IBT operates essentially in the personal arena, where parties develop knowledge about their respective preferences, and decide to mutually assist each other (Lewicki and Wiethoff, 2000). Considering the incentives to negotiate collectively, the deal-making mechanisms, and the relational dynamics of Council negotiations acknowledged so far, it can safely be stated that EU negotiations involve a combination of both trusts. As it happened in one extremely rare case, the representatives of two member states in a particular Group failed to adhere to the *rationale* of the Council relational dynamics and the underlying operative trust. Their attitude hampered the operation of the Group - and the Presidency's agenda - so dramatically that their respective authorities excluded them from this Group. A similar fate was reserved to a delegate who had been forced out of a meeting of his Group. An indispensable question at this stage should be whether the relational cohesiveness and sustainable trust within Groups can lead their members to change their receptivity to each other's positions; their mindsets; or even their loyalty to their capitals. In other words, what kind of collective identity is actually developed over time by individuals brought together in 'Brussels' to share both values and a common outlook based on mutual benefit (Lewicki and Wiethoff, 2000)?

2.2.2 Loyalty and Allegiance

No research has been able to establish that the frequent interactions of national representatives - taking place formally and informally in the framework of the Council – would lead the individuals to shift their loyalty from their capital towards the 'Brussels' norms, or their counterparts[16].

---

[15] Taylor describes 'relational dynamics' as the use of 'message behaviours' to develop and manipulate the relational roles with the other party (Taylor, 2002: 12).

[16] See notably Beyers (1998); Fouilleux, de Maillard and Smith (2004); Larsson (2003); and Trondal (2003).

Even in the Committee of Permanent Representatives (Coreper), and what are probably the densest interactions within Council bodies, nothing confirms any shift of allegiance from its members. The channels of frequent - weekly - interactions are essentially used for strategic purposes by representatives more motivated by the interests in the dossiers, and EFNI, than by the advantages of interpersonal relations or associated social benefit (Lewis, 2014; Elgström and Jönsson, 2005). The study of Egeberg *et al.* confirms that national officials express more allegiance towards their own national government institutions than towards the EU body they attend. Even though EU-level loyalties seem to be secondary to national allegiances, the authors note however a 'system of allegiance' whereby national representatives feel considerable responsibility towards the Council Working Parties and their outcomes. The authors demonstrate that the attention, energy, contacts, linguistic practices, attitudes, coordination behaviour, and loyalties of 'European national civil servants' (as they are purposely called) are to a considerable degree directed towards 'Brussels' (Egeberg, Schaefer and Trondal, 2006).

The reality of the effect of intense interactions on national representatives in 'Brussels' lies probably somewhere between two extremes. On one end, a representative who is blindly loyal to national instructions that are embedded in a unilateral approach dictated from a capital; and, on the other, a representative who might 'go native' by trusting more the 'Brussels' actors interested in distributing equally the outcomes of a possible collegial decision. It is assumed that the cursor of loyalty of a representative will tilt towards one end or the other depending on the occurrences of interactions.

Whether one labels the positioning of representatives between these two worlds as a 'blend of loyalties'; a 'dual or double loyalty'; or 'primary and secondary affiliations', this labelling remains merely rhetorical. It is the 'rooting' of national representatives in the 'Brussels' processes that should be measured; notably by gauging their social capital and their access to the strategic resources – such as information and influence - that are associated with intense socialisation.

2.2.3 Epistemic Socialisation

Some of the 189 Preparatory Bodies of the Council[17] take place more than once every week; others every two weeks in average; and a small number every month or more. The frequency of the meetings and negotiations in such a Group[18] can increase, depending on the agenda of a Presidency; the approaching end of a Presidency; or external events. The more frequently a Group meets, the more its members will be subject to socialisation. The concept of socialisation refers to the processes, structure, intensity and frequency of social and professional ties that bind the individual representatives when exercising their professional activities. It encompasses not only the interpersonal interactions in the context of official meetings or events convening diplomats as official representatives of their member state; it also includes the gatherings, encounters and get togethers between individuals in their non official capacity. The degree of socialisation does not rely only on the frequency of meetings; it is also dependent on the proportion, in a given Group, of capital-based experts - also called *attachés* or counsellors - established in the Brussels based permanent representations of the member states. The higher the degree of socialisation, the more representatives in a Group are empowered to influence the course of negotiations by interacting as peer members in professional and interpersonal channels. In 'integrated' Groups, members operate on a first name basis in the course of their formal meetings. They use private messaging systems during meetings to arrange outside encounters; organize bets; share the results of ongoing sport events; plot a procedural course of action; arrange the requests for the floor; or plan a private evening event. Some Groups have the tradition of a get-together the evening preceding the meeting; they organise collective field trips; or have their dedicated 'drinking spots' in Brussels.

Whilst the formats of socialisation are different from Group to Group, individual preferences among delegates vary as well. It can be deduced from the interviews of Naurin and Lindhal (Naurin and Lindahl, 2008), that national representatives in a Group typically get-together more easily and frequently when they are not too distant geographical neighbours; or if they share a capacity to speak a common language.

[17] Own counting based in the latest nomenclature of the General Secretariat of the Council, July 2018. It takes account of all possible official configurations of a Preparatory Body. The Working Party on Agricultural Structures and Rural Development may for example formally convene in three distinctive configurations for Agriculture and Environment, Rural Development, or Outermost Regions and Aegean Islands. https://data.consilium.europa.eu/doc/document/ST-10925-2018-INIT/en/pdf. Accessed 15 January 2019.
[18] This term is used here to refer to any Council Preparatory Body.

The preference of a delegate to spend more informal time and information with one 'colleague' rather than another might also be motivated by cultural affinity. Some delegates were for example more eager or ready than others to accept the invitation of the latest Finnish Presidency to use the sauna facilities of the Finnish permanent representation to hold informal encounters. This invitation clearly sought to reap the strategic benefits of socialisation that have been confirmed by negotiation theory. Bartos has notably established that face-to-face interaction may influence positively distributive negotiations when the similarities of the parties are emphasised (Bartos, 1995).

From a further theoretical perspective, the notion of 'epistemic community' can admittedly be used to frame the exchange of information; the collective management of interests; and the relational dynamics experienced by national representatives in a Group. By sharing beliefs and a *rationale* for social action, the national delegates can be viewed as peer members of an epistemic community based on knowledge and cognition (Haas, 1992: 3; Sebenius, 1992). In practice, representatives even quite often introduce themselves as members of a specific Group before indicating which member state they are 'diplomatically' representing. *Attachés* and counsellors participating in 'integrated' Groups report very often that the time and efforts they dedicate to informal proceedings, specifically socialisation and 'corridor' activities, are three to four times higher than the time or efforts they spend in formal plenary meetings. The strategic value of a delegate's investment in socialisation is highlighted by the collateral damages experienced by some representatives of large member states who sometimes choose not to participate in the traditional socialisation channels of a Group. They are in fact often left out by the other delegates, regardless of the substantial voting power or size of the member state they represent. In this event, such a non-participating peer will be blamed for a pseudo-imperialistic behaviour that contradicts the informal norm of balanced relational dynamics in force in most Groups[19].

National weighted votes become relative values in a decision-making process where the collective negotiating goal is to reach a compromise that is crafted to be opposed by the smallest share possible of member states. The real value - or power - lies more in the influence that member states will manage to deploy in the decision-shaping process.

---

[19] This behaviour has often been associated with representatives of specific large EU members. A later section expands on the cultural features that might motivate such an attitude in a diplomatic environment.

More specifically, it does not lie exclusively in the strategic tactical means that member states will be able to enforce in order to best affect the terms of the collective compromise solution. It rests also, and more appropriately, on the social capital and resources; the interpersonal affinities; and the relational opportunities used to influence the informal components of negotiation processes. The challenge of the national representative in EU diplomatic governance is however not only to best combine the strategic means with social resources; it is also to juggle between national instructions and some collective attitudinal - as well as managerial - norms that apply to communicative actions and peer members of epistemic communities.

2.2.4 Two-level Gamers

National representatives in the Council are not runaway technocrats; they are doing the bidding of their capitals by subjecting national claims to a collective 'peer-review' process based on internalised behavioural standards (Kassim and Peters, 2001: 298). Lewis has long referred to this challenging 'dual mastery' by picturing the representatives as Janus-faced negotiators (Lewis, 2005; 2009; 2010; 2014). In passing, an analogy can somehow be drawn between this duality and the tensions noted by European integration theorists between intergovernmental and more politically integrated decision-making mechanisms[20]. After studying the reasonings and stances of negotiators from the United Kingdom over three years, Clark and Jones speak of a juxtaposition of national and collective motivations or incentives. They conclude that domestic/national norms or guidelines are simply attenuated, not transformed or compromised, by consensual behaviours attitudes and opinions in the EU negotiating context (Clark and Jones, 2011: 362). In reality, this attenuation is accentuated by the fact that national representatives are not always provided with a clear or elaborate mandate of negotiation. This is quite explicitly acknowledged by Van Keulen in the case of the Netherlands. The political and administrative fragmentation of the playing field at home, together with the incapacity to overcome this with timely and high-level co-ordination, hampers the formulation and subsequent coherent representation of the negotiating positions put forward by the Dutch representatives (Van Keulen, 2010: 209).

[20] Whether these tensions materialise in European integration alternating like a pendulum between the two ends of soft and hard integration (Wallace, 1996: 14); or whether one witnesses instead a 'fusion' between the national and the European levels in EU governance (Wessels, 1997).

The margin of manoeuvre of national representatives is further influenced by the administrative culture and characteristics of the coordination system giving birth to the mandates of negotiation. The typology of national coordination system of Kassim (Kassim, 2003), later extended by Gärtner *et al*. (Gärtner, Hörner and Obholzer, 2011), differentiates fundamentally member states by the degree of centralisation of their administration. National representatives who receive instructions from a centralised coordination system operate in a stricter and more controlled two-level negotiation game. This impacts the duty and the ability of representatives to alter their home and counterparts' positions in the course of the negotiations; or what Thuderoz calls their capacity of 'double revision' (Thuderoz, 2017). Any representative faces to a various extent the need to negotiate home in order to attenuate or adapt the national instructions; whilst measuring them to the benefits of the terms negotiated on the 'Brussels battle ground'. The two-level game theory presented in particular by Putnam stages the international negotiator as both the recipient of the preferences and interests of domestic societal actors, and the compromise builder interacting with international counterparts (Putnam, 1988). Putnam essentially describes how international negotiations create opportunities for negotiators to pursue synergistic strategies aimed at reshaping politics in both their own and the international arenas (Schoppa, 1993). This task might be more arduous for representatives of member states experiencing domestic resistance to European integration; because these member states seemingly tend to oppose more easily the norm of consensus in the Council (Hagemann, Hobolt and Wratil, 2016).

The individual juggling required from national delegates was unequivocally demanded by a former Danish Deputy Permanent Representative (DPR)[21] from his "troops" in Brussels. When arriving in Brussels from a bilateral embassy of the Danish Foreign Affairs ministry, the Danish national representatives would be given one or two months by the DPR to blindly repeat and implement the instructions received in their mandate from 'Copenhagen'. After that period, he said, the representatives should evaluate their instructions in light of what is on the 'Brussels' negotiating table; and attempt to convince 'Copenhagen' to revise the original national instructions accordingly if necessary.

[21] A DPR represents a member state in Coreper I. It is the formation of the Committee of Permanent Representatives in charge of preparing decisions in the areas of agriculture and fisheries (only financial issues or technical measures on veterinary, phytosanitary or food legislation); competitiveness; education; youth; culture and sport; employment; social policy; health and consumer affairs; environment; transport; telecommunications; and energy.

After six months, he warned, the representatives should come to him, and receive his own instructions that would be influenced primarily by what happens in Brussels, not Copenhagen. A call for such distancing had already been heard as soon as 1960, when all member states, grouped as the Council, recommended that the ministries at home give to their delegates flexible instructions for the preparatory meetings (Kleine, 2013). This guidance might also be derived from the Conclusions of the 1999 Helsinki European Council containing operational recommendations for an effective Council in an enlarged Union. While acknowledging that effective coordination has a direct bearing on the functioning and coherence of the Council, the Conclusions stress that member states have a common and genuine interest to ensure that their internal organisation allows the Council to deliberate more effectively[22].

It can be argued that the individual empowerment of national representatives is a crucial factor explaining why more than two-thirds[23] of the legislative decisions adopted formally by the Council of the EU are worked out and finalised during negotiations taking place at the level of the Preparatory Bodies. For Parízek *et al.*, the distribution of labour to lower levels explains the effectiveness of the Council in spite of the agenda load, the membership size, and the increase in heterogeneity that have resulted from the eastern enlargements of the EU (Parízek, Hosli and Plechanovová, 2015).

2.3 Transactional Diplomacy

This section enters the black box of compromise-building in the Council; it attempts in particular to elucidate the making of the 'interested consensus'. For that matter, the section looks first into the specific mechanisms of distribution and reciprocal exchanges composing the bargaining dimension of what are mostly integrative interstate negotiations. It then examines the elaboration of a compromise - seen as a negotiation object - by studying the case of a concrete legislative act and the different 'transactions' needed to forge a multilateral agreement. The section moves further to discuss the advantages and consequences of keeping negotiations 'in the dark'.

[22] Helsinki European Council, Presidency Conclusions, 10 and 11 December 1999. Annex III: An effective Council for an enlarged Union - Guidelines for Reform and Operational Recommendations. http://www.europarl.europa.eu/summits/hel2_en.htm#III. Accessed 09 September 2018.
[23] Average number based on several studies. See notably Hayes-Renshaw and Wallace, 2006a; Olsen, 2010; Häge, 2012.

It draws on this balance sheet exercise to assess the various covert and informal patterns of EU diplomatic governance. The section addresses finally the challenge of building compromises when delegations assert non-negotiable national interests, also known as political red lines.

2.3.1 Logrolling or Transactional Compromise Building

The 'double revision' process in the reiterative multilateral legislative negotiations of the Council imposes on diplomats to choose the right negotiation style; calculate immediate and future payoffs; and secure national interests. This process is operated through consensus building and appropriate resistance; it leads to a final agreement, or deal, founded on a compromise solution. In this description, the word 'compromise' is derived from the Latin legal word *compromittere* ("to promise together"). To compromise means thus to undertake together and to act in a certain way; bearing a joint promise to follow specific terms agreed mutually. The agreement designates here a single undertaking in which there is no final agreement until every issue on the table is resolved (Sebenius, 1983). Tsebelis and Hahm derive from an ample literature review a classification of negotiation deals that can appropriately be used to accommodate not only theoretical considerations but also the Council's specificities (Tsebelis and Hahm, 2014).

The first family of deals involves 'compensation'. It is a mechanism securing the participation and support of the 'would-be losers', by including benefits for them in a package deal. The arguments to convince them to adhere to the package deal would be trade-offs, side payments, or linkages. Haas has identified two types of linkages specifically (Haas, 1980: 373). The first is 'tactical'; it involves linking issues that are not inherently connected or part of the same text. The sacrifice of a peripheral demand poses no problem as long as what is really wanted by a party is achieved in the central negotiation. Poast finds for example that when trade has been used as a linked issue for alliance negotiations in Europe between 1860 to 1945, the probability of an agreement has increased substantially (Poast, 2012). In contrast, 'substantive linkages' connect coherently and 'intellectually' the issues; they are bartered or exchanged within the restricted boundaries of the same legislation and provisions. One could speak in these two respective cases of heterogenous and homogeneous packages, based on external or internal linkages.

In both cases, the key parameter that distinguishes different types of issue linkage situations is whether states with opposing interests value all the issues at stake differently. Consequently, the central characteristic of linked issues that affects international bargaining is the degree to which opposing states consider different issues to be most important to their interests (McKibben, 2010).

Deals of the second category are based upon 'elimination'. This process aims to discard the issues of contention, notably by working out ambiguous legal provisions and least common denominators. Jönsson uses the wording of 'constructive ambiguity', as a term denoting the deliberate use of vague language in an agreement to allow opposing parties to interpret it in different ways (Jönsson, 2016: 85). It is for example purposely unclear what the exact timeline and conditions are for an obligation to take place "when appropriate"; what the intensity of the action should be when it is scheduled to be "substantial"; or what degree of commitment is imposed on members states when an agreement provides that they "should" act. The purpose of this deal-making process is to echo in the final agreement the particular interest or claim of delegations; it has the very purpose of building a sufficient or 'procedural consensus' (Smeets, 2016), and to inhibit resistance.

The third variety identified in the literature is the 'compromise' as such. Whilst this deal includes tangible preferences taking account of the salience of the various interests of the negotiating parties, it may also be founded on less tangible rules and values; such as equity and justice notably. For Albin and Druckman, parties may well be motivated to compromise only, or primarily, if 'Justice is served' in the negotiation process (Albin and Druckman, 2014). The authors distinguish between the Procedural Justice and the Distributive Justice. The former is fairness about the process and the procedures guiding the negotiations; the latter is fairness in the allocation of benefits.

In order to be effective, any process aiming at accommodating the most sizeable number of interests of the largest number of member states in an 'interested consensus' needs to rely on all three formats and components of the 'deal'. Jointly, they compose one of the most elaborate processes of negotiation referred to as the 'logrolling'.

Originally, logrolling is a competition staging two lumberjacks, both standing on a floating log, or tree trunk, going down a river. When one or the other starts walking, or rolling the log, the other should ideally keep up. The metaphor is used in negotiation theory to depict the interdependence of parties having to agree by coordinating or exchanging concessions in order to make the agreement more satisfactory than the status quo. Logrolling pictures the exchange of favours and benefits - in a systematic and symmetrical fashion - aiming to compensate the parties, eliminate their problems, and accommodate their most salient interests. Logrolling might even allow to create package agreements out of components that would be non-negotiable if treated separately (Hopmann, 1996). This approach involves identifying the interests; prioritising them; and creating trade-offs in which parties concede on low-priority interests in order to receive satisfaction for high-priority interests (Brett, Goldberg and Ury, 1990). Logrolling is a negotiation method that builds into a compromise not only the issues linked together to form a package deal over a particular issue; it includes also the rewards or compensations for those parties that offer the most expensive concessions. Carnevale and Issen speak in this instance of 'reward resources', or side payments, that make the agreement acceptable (Carnevale and Issen, 1986). Martin confirms that the homogeneity of positions and preferences is not a prerequisite to an 'interested consensus' if logrolling animates the parties, and if states are able to link issues credibly (Martin, 1994). For Heisenberg, interactions within the Council are governed by logrolling; the author sees it as an essential factor contributing to the 'culture of consensus' (Heisenberg, 2005). In their analysis of the voting records in the Council, Bailer *et al.* further argue that structurally weaker member states are basically 'appeased' by the subsidies granted to them during the negotiations. They speak specifically of a negotiation system subsidising member states in bargained package deals. In such system, the net EU budget contributors are more likely to oppose EU legislation than net beneficiaries (Bailer, Mattila and Schneider, 2015). According to Epstein, member states lagging behind economically actually trade at a high price their flexibility and support for the package deal (Epstein, 2014). The 'subsidies' serve then the purpose of compensating for the adjustment costs; not only for the investments in new policies, but also for the procedures to bring about policy change and to accommodate internally the effects of political opposition to change (Arregui and Thomson, 2014: 693). It is worth recalling here Putnam's argument that every country has a domestic win-set consisting of all the bargaining outcomes that would 'win' approval of the majority of the constituency at home (Putnam, 1993).

Parks and Komorita qualify logrolling as a process of reciprocity (Parks and Komorita, 1998). This method offers mutually profitable exchanges between counterparts with different, yet compatible, interests. The value of a particular exchange for a member state will depend on the salience of the issue; on the affordability of the status quo; and on the perspective to trade bargaining chips in successive or parallel rounds of negotiation. This section will elaborate further on logrolling in EU diplomatic governance by briefly presenting four examples illustrative of the types of transactions used to ensure the cooperation of national delegations – or make sure they keep 'rolling on the log'. It submits ultimately that an interstate logrolling mechanism can be referred to as a 'transactional compromise'.

The first type of 'transactional compromise' is a 'multidisciplinary and tactical linkage' involving different policy-making and legislative agendas of the EU. The example chosen is based on Da Conceição-Heldt's analysis of the divergence of preferences between member states that existed regarding the degree of competition and liberalisation to be established respectively for the Common Fisheries Policy and the common market organisation for fish products. Some member states in particular favoured a protectionist policy and feared the collateral damages incurred by liberalisation. The compromise reached for the fisheries policy decision was flanked with a proposal to provide financial assistance as a general policy instrument on fisheries (da Conceição-Heldt, 2008). As a partisan of liberalisation and competition in fisheries, Germany conditioned its support for this financial instrument, and structural assistance in general, to the reciprocal backing by some beneficiary states of the German position on a legislative Proposal banning advertising for tobacco products. Considerable German pressure was in particular mounted on Spain through informal channels.

The second example introduces what can be called a 'locked-in transactional compromise'; where the negotiation within the Council is influenced by actions and commitments resulting from external relations of the EU. Locked-in strategies are used by member states, or the Commission, to link an issue on the international negotiation agenda with other policy commitments at the EU level (Panke, 2015). The negotiation at hand took place in 2006 to adopt legislative measures for the chaptalisation of wine; *id est,* the process of adding sugar to increase the alcohol content in wine[24].

[24] *Europolitique*, Conseil Agriculture: réforme du vin, 26 October 2006.

Member states geographically located in the northern part of the EU have traditionally defended the authorisation to chaptalise wines; not only to compensate the shortage of sun in their own production, but also to better match some local alcohol consumption preferences. In contrast, and unsurprisingly, member states from the south advocated the abolition of chaptalisation. The two camps appeared to have entrenched and irreconcilable positions motivated by historic and cultural preferences. They managed however to ultimately reach a compromise by contemplating some common underlying interests in the matter a stake. The negotiation on chaptalisation took place when pressure was put on the EU, in the framework of the Word Trade Organisation, to reform its sugar price support system. When the prospect of reform materialised, some member states benefitting from price support realised that the reduction of the consumption of sugar resulting from curbing chaptalisation would drive the prices of sugar down. The two *dossiers* were negotiated side by side in order to reach a solution for both files, and the two camps. This case illustrates the theory supporting an 'integrative' method to compromise building; where a horizontal or multidisciplinary approach is used to contemplate the interests of national delegations beyond their positions. This method has somehow been formalised as a function and jurisdiction of Coreper. The Committee should indeed endeavour to work out agreements whilst assembling all preparatory work undertaken by different bodies in multidisciplinary *dossiers*[25]. It is also the Preparatory Body in charge of managing lock-in strategies.

The third type of 'transactional compromise' rests on a 'positive leverage through linkage' to the direct benefit of one or several specific member states. In 2002, Ireland appeared to be favoured in the negotiations that had started on the reform of agricultural direct payments and budgetary adjustments before EU's enlargement to ten new member states. It is as if a tacit institutional agreement was in place to safeguard the country's interests in order to secure the odds of a positive result at the second Irish referendum organised later that year to save the fate of the Nice Treaty[26].

[25] Article 19, Council Rules of Procedure; and Point 21, Conclusions of the European Council, December 1999. http://www.europarl.europa.eu/summits/hel2_en.htm#III, accessed 09 September 2018.
[26] Soon after the referendum, the Danish Presidency confirmed in a way the arrangement, with its chairing minister stating that the referendum result would make it easier to reach a deal. See Denis Staunton, EU ministers still facing problems despite Irish vote, *Irish Times*, 22 October 2002.

The final example of incentives and transactions to 'roll the log' involves a 'negative leverage through linkage'; whereby outside or 'external' interests of one or several member states are put into the balance or jeopardised. During the 2013 negotiation on admissible car emissions in the EU, several member states have felt the leverage imposed by Germany. Senior members of the German government communicated then that German car makers could consider reducing, or even drop completely, their production in several member states unless they would support weaker carbon emissions norms. Germany also threatened to derail negotiations on financial bailouts, in particular the ones destined to Portugal[27].

To conclude, the Council's *modus operandi* of negotiation is integrative in essence, with a blend of distributive bargaining when attempting to accommodate the interests of delegations. It relies on logrolling through the three combined mechanisms of elimination, compensation and compromise building. Logrolling, or 'transactional compromise building', can be considered as the primary method of EU diplomatic governance used to organise the exchanges needed to build an 'interested consensus'.

2.3.2 The Manufacture of a Compromise

The section aims to make the case of an EU transactional diplomacy even more convincingly by presenting the final settlement of a particular negotiation nurtured by logrolling and a pivotal role of the EU institutions. The section studies the negotiation of the legislative Proposal for a so-called 'chocolate Directive[28]. This case is submitted as appropriately symptomatic of 'transactional management' in EU diplomatic governance. The Proposal was triggered not only by a conformity challenge raised in the framework of the World Trade Organisation; but also, and primarily, by long standing legal issues relating to the free movement of goods. It all started in the seventies, when the common market of the European Economic Community (EEC) was sometimes disrupted by protectionist practices of member states aiming to restrict imports from other member states. Such practices were most often invoked by member states to cope with the need to protect public health and loyalty to their domestic consumers.

[27] Barbara Lewis and Charlie Dunmore, Germany leans on EU states to weaken car emissions law, *Reuters*, 18 June 2013. Accessed 09 September 2018.
[28] Directive 2000/36/EC of the European Parliament and the Council of 23 June 2000 relating to cocoa and chocolate products intended for human consumption, OJEC L197 of 3 August 2000, p. 19.

Restrictive trade practices have for example involved foreign lawn mowers that were banned from import in some member states because they were judged to be more dangerous than their national equivalents; or chocolate that was stopped at the border because it had been manufactured in a different way, and should therefore not be presented under the name "chocolate" to the domestic consumers. To remedy this situation, the then six member states agreed on the strong harmonisation of some controversial products; they decided to create 'euro-products' by means of specific technical directives. These directives provided for specific characteristics of the harmonised product – the ingredients, properties, and manufacturing method - to be observed by every member state when selling this product under a designated name.

Chocolate was harmonised in this way and became a 'euro-product' by means of a directive adopted in 1973. It required that a product aspiring to be called "chocolate" may not contain vegetable fats other than cocoa butter. In that same year, the EEC was enlarged to Denmark, Ireland and the United Kingdom. By way of a transitional derogation, these new member states were given the right to add to 'chocolate' up to five percent vegetable fats other than cocoa butter (hereafter referred to as 'other vegetable fats'). In addition, Ireland and the United Kingdom were granted the right to call their chocolate "milk chocolate", although its milk content (20 percent) exceeded the European standard for milk chocolate (fourteen percent). Later, at the time of their accession, Portugal, Austria, Sweden and Finland were given the same right to use up to five percent other vegetable fats in the production of their chocolate. This legal framework did not inhibit Spain to prohibit the marketing of a type of chocolate that contained other vegetable fats. Italy for its part had stipulated that imported chocolate containing such other vegetable fats should be called "succedaneous" or "substitute" chocolate. The Commission recommended as soon as 1983 to revise the 'chocolate Directive' with a view to better elucidate and establish the rights of member states benefitting from a temporary derogation to sell their product freely as "chocolate" in the other member states. After having long sensed the absence of a qualified majority for any revision, the Commission tabled its legislative Proposal for a new Directive in 1996[29]. The Proposal foresaw a new legal mechanism relying on three consistent provisions.

[29] Proposal for a European Parliament and Council Directive relating to cocoa and chocolate products intended for human consumption, COM/95/0722 final, Official Journal, C 231, of 09 August1996.

First, every member state would be free to either authorise or prohibit its chocolate makers to use other vegetable fats up to a limit of five percent of the weight of the finished product. Second, every chocolate producer should mention on its product that it contains other vegetable fats, in addition to a list of ingredients; this requirement is called double labelling. Third, each member state must allow the selling of all products covered by the Directive, without altering their names; whether this is “chocolate” with other vegetable fats or not.

The negotiation staged quite explicitly the diverging positions and preferences of two camps. Among the ‘purists’ opposed to other vegetable fats, delegations defended old traditions of trade relations with cocoa exporting developing countries; a high standard of culinary art; as well as quite ancient production and consumption patterns for ‘authentic’ chocolate. Member states defending the use of other vegetable fats asserted a preference of taste; economic motives (cocoa being more costly than substitutes); consumption preferences, with chocolate buyers preferring chocolate bars and snacks where there is hardly any room for double labelling; and even other quite pragmatic reasons, like the scientifically established fact that other vegetable fats can usefully contribute to prevent chocolate from melting. The compromise was reached three years later at the level of Coreper, and the end of the German Presidency of the Council. It was the result of the combined efforts of the Presidency and the Commission to interest a comfortable qualified majority of member states in an agreement. In fact, only Belgium was ultimately left alone opposing the final compromise text; with all other members of the coalition of the ‘purists’ leaving to grab some benefits out of the deal proposed to them. By allowing every chocolate manufacturer in any EU member state to use up to five percent of other vegetable fats, the final agreement evidently favoured the other camp.

This section will demonstrate further how the final compromise managed nonetheless to accommodate a sufficient number of interests of a large enough number of delegations from the ‘purist’ camp to neutralise their resistance and dissent. The final compromise is illustrative of four patterns that have so far been associated with EU diplomatic governance in this dissertation. They are the integrative approach to negotiation; the strategic calculations; the transactions and linkages; and the bypassing of dissenting positions.

As the fiercest opponent of the Proposal, the United Kingdom was persuaded to give up several of its *desiderata* in exchange for the five percent of other vegetable fats production allowance. The UK accepted to include the double labelling in the final text; it dropped its claim to extend the British higher milk content derogation to the rest of the EU; and it also abandoned its demand to authorise the use of Genetically Modified Organisms as parts of other vegetable fats in the production of chocolate. Equally crucial was the UK's interest to support the Presidency's plan to break up the coalition of the 'purists'. As a very engaged member of this coalition, France was opposing the widespread five percent rule essentially to prevent, it said officially, that some African countries would suffer a drop in their cocoa exports revenues in the likely event of a reduction in the demand for cocoa following the introduction of the 'five-percent rule'. The position of France was primarily motivated by the country's interest to protect the Ivory Coast, a former zone of influence and a determining piece in its African policy. This information has incentivised the German Presidency to target the French interests by proposing to designate specifically seven specific ingredients as the only other vegetable fats allowed in the production of chocolate. As it happens, the Ivory Coast and a number of other developing countries had the capacity to produce these seven exclusive vegetable fats. They could therefore potentially contemplate substitute earnings if the demand for cocoa were to fall. The fact that many of these countries belonged to the Commonwealth was a triggering factor to ultimately convince the UK. And since Luxembourg, and even more so the Netherlands, had been expressing a strong interest to safeguard the interests of the developing countries as a *conditio sine qua non* to finally sign up to the agreement, they decided to 'flip' and leave the coalition of the 'purists'. They became indeed convinced that developing countries would not be excessively harmed if they could secure revenues by exporting the seven ingredients as substitutes to cocoa. A further blow to the coalition came with the leverage used to convince three more members; namely Italy, Spain, and Greece. Only a few weeks after its Proposal for the 'chocolate Directive', the Commission put forward a Proposal to reform the Community olive oil sector. It did so however without circulating to interested parties the reflection paper that was customarily used at the time before tabling a Proposal. The Commission subsequently started to approach the three member states as the direct beneficiaries of Community support and market organisation for olive production.

The message of the Commission to them was quite straightforward, and delivered in the margin of formal negotiations that had been postponed by the Council to enable the necessary period of reflection[30]. The Commission signalled that it would be ready to ultimately agree with the Council on a light and not excessively damaging 'olive' reform, if the three countries would in return show goodwill in the parallel negotiation on the 'chocolate Directive'.

Additionally, the Commission decided to use an institutional and judiciary leverage on some obstructing member states. The Commission warned them privately of its intention to initiate a legal proceeding to the European Court of Justice in the event they would not vote in favour of the new legislation. This legal action in Court would fight the extreme measures adopted in any 'purist' member state to supposedly protect consumers, on the ground that they hinder the free movement of goods and undermine the principle of mutual recognition. The Commission was merely sending a message, in particular to Italy and Spain, that they should not consider the status quo of the existing legal framework as a valid option; in other words, agreeing to adopt the new legislation would yield greater value, or less costly consequences, than their BATNAs[31].

The Presidency and the Commission ultimately managed to convince a large number of 'purists' to abandon their negotiation strategy which theory designates as 'opportunistic avoidance'. In this case, whilst the main objective of a negotiating party is not an agreement, a compromise is however not completely ruled out (Wallihan, 1998: 261). The turning point in this elaborate case of compromise building was twofold. It was the information collected by the Presidency on the underlying interests of member states beyond their conflicting positions; it was also the linkages and leverage used by the Commission to force the hand of member states overtly opposed to the idea of better enforcing the right to use other vegetable fats. Turning points are certain events that occur during a negotiation, and can alter its course. They are precipitated by actions taken either inside or outside the formal talks (Druckman, Olekalns and Smith, 2009).

[30] *European Report*, Farm Council: Ministers demand further reflection on olive oil reforms, 31 October 1996.
[31] The Commission formally informed Italy in a letter dated February 1997; a reasoned opinion of the Commission reached Spain in July 1998.

2.3.3 ‘Informality’ *vs.* Transparency

It seems fair to assume that the turning point in the negotiation of the ‘chocolate Directive’ would probably not have been reached had the negotiation not used informal, private, secluded, and unofficial channels. This section elaborates on the issue of ‘informality’, a concept used as the combination of these four types of channels. In light of the debate over openness and transparency of Council legislative decisions, the section aims to explore whether any general conclusion can establish the higher effectiveness of ‘informality’ in comparison to negotiations held in formal, public, overt, or exclusively official settings.

Studies have underscored at length the importance of media visibility as an influence of flexible behaviour; it turns out manifestly that compromise is more likely if negotiations are held in private (Druckman, 1995: 79). Research carried out by McKibben confirms further that non-cooperative bargaining strategies are more likely to be adopted when negotiations are intensely publicised (McKibben, 2013). Governments may indeed want to use any domestic opposition during the public negotiations to portray themselves as unable to make concessions; their objective would so be to incite their counterparts to show flexibility in order to secure the domestic support for the final agreement. Their calculation is to benefit from higher ‘audience costs’ usually derived from crisis bargaining (Özyurt, 2014).

Skilful politicians can of course exaggerate the constraints on one board of the two-level game, in order to escape constraints on the other (Ripsman, 2004). In order to restrain such tactic in the Council, Smeets suggests to force ministers to openly take a position on an issue. He claims it is the degree of exposure that explains when and how unanimity is reached in the Council; with the interventions, not the vote, being the means to show opposition (Smeets, 2015: 290).

The findings presented by Cross confirm that the level of transparency does indeed affect the positions taken by negotiators. Legislative contexts to which a high level of transparency applies generally experience more polarised interventions and deliberations (Cross, 2011).

The Council has long been under pressure, since the Maastricht Treaty and the first enforceable references pertaining to transparency and openness[32], to grant better access to its internal proceedings and related documents. Ever since Decision 93/731/EC[33] on public access to Council documents in particular, the institution has nonetheless resisted to protect its right to confidential interstate negotiations by interpreting very strictly the notion of public interest that supports the right to access documents. The defiance of the institution appeared quite overtly and significantly in 2003, when the Council denied the individual request of a Dutch Member of the European Parliament to disclose the positions of the member states on an alternative draft to the Proposal for an Asylum Procedures Directive. The Council was willing to share a recent draft of the text, including comments made by member states in the Working Group; but it blanked out who said what. The Council asserted that the possibility for delegations to express their views freely on politically sensitive issues constituted an essential pre-condition for the Council's capacity to find compromise solutions[34].

When dragged into legal proceedings, the Council has also managed to safeguard its secluded deliberations; although being compelled to grant access to some documents for the sake of public interest and information imposed by law. None of the judgements against the Council have in fact forced the institution to really reveal negotiation strategies of national delegations. In the '*Guardian*' case[35], the documents to be disclosed related to the minutes of the meeting of a 'Justice Council', together with a list of the participants to the meeting. In the '*Turco*' case[36], the documents to be disclosed pertained to the agenda of a Justice and Home Affairs Council meeting; they included an opinion of the Council's legal service on a Proposal for a Directive laying down minimum standards for the reception of applicants for asylum in member states.

---

[32] Declaration no. 17 on the right of access to information was attached to the Treaty with a view to strengthening the democratic nature of the EU institutions and the public's confidence in the administration. In addition, Article 1(2) of the Treaty provided that decisions "(…) shall be taken as openly as possible and as closely as possible to the citizen".

[33] Council Decision of 20 December 1993 on public access to Council documents. OJ L 340, 31.12.1993, p. 43. It was followed by Regulation (EC) no. 1049/2001 of the Parliament and the Council regarding public access to European Parliament, Council and Commission documents. OJ L 345, 31.5.2001, L 145, p. 43.

[34] *European Report*, Access to documents: Council refuses to reveal national positions on proposals, 23 July 2003.

[35] Case T-194/94, John Carvel and Guardian Newspapers Ltd v Council of the European Union, Judgment of 19 October 1995, ECR II - 2767.

[36] Joined cases C-39/05 P and C-52/05 P, Kingdom of Sweden and Maurizio Turco v Council of the European Union. Judgment of the Court of 1 July 2008. ECR I - 4723.

Two further cases involved only the negotiation position of the Council as such in the framework of international negotiations. They related respectively to the accession of the EU to the European Convention of Human Rights[37]; and the Anti-Counterfeiting Trade Agreement negotiated with ten other parties[38].

The institution should be reassured by the results of research undertaken by Hagemann and Franchino; it shows that increased transparency, in the form of the publication of the voting records of legislative decisions to be authorised by the Council, does not engender gridlocks or prolong negotiations. It does not in fact negatively affect the ability of governments to reach agreement on policies (Hagemann and Franchino, 2016). Equally, Häge and Naurin noticed that transparency rules did not have as adverse an effect on the compromise building as previously thought (Häge and Naurin, 2013). The study of Cross and Bølstad further examines transparency and censorship in the Council; *id est,* the decisions to publish or not the record of the votes on the ground of confidentiality of proceedings. Whilst the authors show that a massive shift towards greater transparency has been triggered by the legislation introduced in 2001, they also show nevertheless that the trend towards greater transparency has been interrupted by the two enlargement rounds of 2004 and 2007. They attribute this decline to the inexperience of the new member states; the newcomers being still convinced of the need for censorship, and not quite yet confident in the expertise the Council had acquired for shielding the substantial informality of its internal negotiation processes (Cross and Bølstad, 2015).

In some cases, 'informality' has in fact become the primary norm to manage deliberations and negotiations, in particular when involving reciprocal transactions between delegations; two are worth highlighting in particular. First, in order to manage the euro crisis in 2008 and 2009, the ministers of Economy and Finances would spend more time over an informal breakfast than the ECOFIN Council would officially last. When the formal meeting took one hour, the informal gathering would take three (Puetter, 2012). The second evidence occurred on 26 October 2006, when the Finnish Presidency of the Council invited for lunch, on the fifth floor of the Council building, the representatives of seven member states that needed to be convinced to support a new tailor-made compromise text aimed to revise the 2003 Directive on working time.

[37] Case T-331/11, Leonard Besselink v the Council, Judgement of 12 September 2013, T:2013:419.
[38] Case C-350/12 P, Council of the European Union v Sophie in 't Veld, Judgement of 19 March 2013, C:2014:2039.

Poland was grappling with one of the first lawsuits by a doctor applying for compliance with the European Court of Justice case law on duty hours; the United Kingdom wanted to extend its opt-out to the new legislation; Germany was eager to show flexibility to close the negotiation before its incoming Presidency would start; whilst France, Spain - and to a lesser extent Italy - were fighting to remove the British opt-out, they were also eager to secure the flexibility and partial derogations that had been granted to them in the original Directive. In parallel, the Commission was mounting pressure on member states to agree on the compromise. Like in the 'chocolate case', the institution warned that the legal and administrative practices prevailing in some member states were undeniably illegal; notably since jurisprudence had extended the scope of the original Directive to medical doctors (a profession not covered initially). The one and only solution, the Commission implied, was to extend, elucidate, and reaffirm the legal framework on working hours in a revised Directive. The Commission informed the participants to the meeting that it had infringement proceedings ready against 23 member states. When the Commission formally announced its intention to initiate the legal proceedings, the institution warned it would start with "those that have scuppered the chances of an agreement"[39]. It is only during this lunch that ministers would have their real negotiation on whether a compromise settlement could be reached. An 'EU diplomat' confessed that nothing more than "a lot of playing to the trade union gallery", would be expected from the formal Council meeting[40].

By way of conclusion, this section submits that in as much as the effectiveness of EU diplomatic governance relies on a useful balance between formal rules and informal norms of decision-making, it also rests on a carefully managed balance between 'informality' and transparency.

2.3.4 'Sacrality' and Political Rationalities

'Informality' and logrolling might be inoperative in some situations; merely when negotiation positions of member states would include non-negotiable interests or manifest entrenched red lines.

---

[39] *Europolitics Social*, Working time directive: 23 countries face Commission action if no settlement is reached, 15 November 2006.
[40] George Parker, Playing to the Gallery, *FT.com*, 07 November 2006.

Formally, such lines and positions are expressed as 'full reserves' - or '*réserves de principe*' - by the delegations in the official proceedings; they are dealt with by the highest political level, *id est* a meeting of the Council of Ministers. Hard-line tendencies and resistance of negotiating parties may be motivated by deeply rooted interests that are highly political, non-economic in nature, and cannot be traded. Goodin and Brennan speak of differences of 'beliefs' between parties in situations where other interests and goals might in fact be fully compatible (Goodin and Brennan, 2001). The longest - or even in some cases aborted - negotiations in the EU have confronted such constant national values and 'beliefs'. They involved notably principles such as transparency, neutrality, state interventionism, social dialogue, maternity, gender equality, or cross-border care services. Negotiation theory designates more generally such values and issues as 'sacred' interests. They are any value that a moral community implicitly or explicitly treats as possessing infinite or transcendental significance that precludes comparisons, trade-offs, or indeed any other mingling with founded or secular values (Bazerman, Tenbrunsel and Wade-Benzoni, 2008: 113). The cultural roots and historical traditions of member states feed some invariable national and non-negotiable interests in many different EU policy-making areas. Arguably, the zealous resistance and non-negotiable stance of Belgium during the adoption of the 'chocolate Directive' was somehow motivated by a 'sacred' interest; it could simply not be accommodated in a final compromise allowing any chocolate producer established in Belgium to add other vegetable fats to chocolate. 'Sacred' interests might also originate from the personal beliefs and values enlivening the national negotiators who are capable of influencing or dictating the entire negotiation strategy of a country on a particular issue. During the negotiation of the 'chocolate Directive', the Dutch minister for Development Cooperation seemed to have such clout on his government; to the extent that the Netherlands would ultimately only agree on a compromise text on the condition that it did not harm the interests of cocoa exporting countries and, consequently, the strong humanitarian convictions of the minister. On the subject of individual beliefs difficult to bypass, Miklin shows that the ideological preferences of the ministers have also weighed in considerably on the politically sensitive issue of the Services Directive and the posting of workers. The author reports how ministers have debated the matter informally, and how their personal preferences had a significant impact on the outcome of the negotiation. It turned out that the final deal was quite distant from the avenues that had been explored at lower technical levels (Miklin, 2009).

It is argued that member states defend their 'sacred' interests through argumentative and protectionist bargaining when their political, social, economic, or traditional identities are at stake; or when these identities would be perceived to be deeply affected by EU legislative actions. In argumentative bargaining, national positions are primarily grounded on values and norms, and less on facts and figures; they are part of a strategy aiming essentially at protecting national *status quo* and established traditions. In this process of deliberation, the principles advocated are hard to compromise, and negotiations become what is often labelled as 'political'. The process is one of 'partisan protectionism', where the domestic agenda appears to be contrary to the established collective methodology of the 'interested consensus' (Bastasin, 2009). Considering the principle-based *rationale* and the strategic nature of the argumentative, protectionist and partisan interests, this section submits to view them as 'political rationalities' in the framework of Council negotiations.

It would of course seem natural to suspect that a party may abuse its counterparts by claiming the supposed 'sacrality' of some interest; only as a tactical mean to trade it off in the final stage of the negotiation. Tenbrunsel *et al*. speak in this instance of 'pseudo-sacred' interests (Tenbrunsel, Wade-Benzoni, Tost *et al.*, 2009). A suspicion has for example emerged during the negotiation over the maximum journey time for animals within the EU. Delegations from northern member states invoked the welfare of animals to restrict as much as possible the journey time of animals transported within the EU. This fundamental matter of principle, advanced in particular by the United Kingdom, quickly raised doubt among delegations from southern member states. Rather than a non-negotiable 'sacred' interest, they saw instead an attempt by northern member states to encourage the slaughter of animals in their own abattoirs by making transportation to southern member states more difficult and costly[41]. In such an occurrence, Shapiro's advice is to distinguish between the 'sacred', 'pseudo-sacred' and 'important interests'; and to consider for negotiation only the two latter ones (Shapiro, 2017). Atran and Axelrod's empirical findings and historical analysis confirm that offering to provide material benefits in exchange for giving up a 'sacred' value may actually make the settlement more difficult to reach. This is because the counterparts could view the offering as an insult rather than as an offer to compromise (Atran and Axelrod, 2008).

[41] *Agence France Presse*, EU ministers fail to reach agreement on animal transportation, 22 February 1995.

2.4 Rotational Management

All processes of EU diplomatic governance examined so far involve or fall under the prerogatives and jurisdiction of the rotating Presidency of the Council of the EU. It is argued that the effectiveness of the processes relies largely on the capacity and strategy of the Presidency to manage the relational dynamics between representatives; the consensus building and reciprocal transactions; the coalitions; the 'informality'; and the accommodations of political rationalities. The formal rules and informal norms that have been developed over time to enable the Council to be more effective have to a large extent concentrated on improving and upgrading the means made available to the rotating Presidency. This dissertation submits that the functions and resources of the Presidency to manage interstate negotiations are organised in four rotational patterns; they form together what can be called a 'rotational diplomacy' exerted by Presidencies of the Council that are themselves rotating every six months.

First, Presidencies are subject to a 'rotational symmetry'; this property makes a shape look identical even after some rotation by a partial turn. Presidencies all look identical in the sense that they share the same objective - and duty - to coordinate and advance the work of the Council, and get results (Guggenbühl, 2004; Schout and Vanhoonacker, 2006).

Second, Presidencies are expected to reiterate the necessary 'circular barters' (Touval, 1989: 165) in order to achieve distributional problem-solving throughout all negotiations scheduled in their programme. This means a Presidency needs to manage the processes of logrolling or 'transactional compromise building', reciprocity, and Justices between the delegations over a six-month period.

Third, Presidencies are required to secure interested consensuses; it implies to include all delegations in the circle of investigation and negotiation without leaving any one out or isolated. This is to some extent literally represented by the '*tour des capitales*' that Presidencies undertake either in the course of the preparation of their tenure; or in order to initiate a difficult negotiation planned in their agenda. Equally, the positions of all the delegations, formally sitting in circle around the Presidency in the official meeting rooms, will need to be heard and considered by the Presidency in order to sustain Procedural Justice.

Finally, the pairing of the Presidency with the Commission may be looked at like a rotational dance between partners sharing the same objective; each one taking its role in the negotiation to ensure the adoption of a new piece of legislation by member states.

This section explores a few striking facets of rotational diplomacy; more specifically transactional management through fairness and equity, a dynamic distribution of labour, and a form of 'institutional 'pairing'.

2.4.1 Procedural and Distributive Management

The first managerial task of the Presidency is to secure fairness in general, and Procedural and Distributive Justices in particular[42], in all formal and informal meetings under its leadership and responsibility. In the case of the 2015 Latvian Presidency, its duty has been to manage formally 1250 meetings of Council Preparatory Bodies, 43 Council meetings, 203 *trilogue* meetings with the European Parliament and the Commission; only in Brussels, and during 151 effective working days[43]. These duties have become binding informal norms essentially because the Presidency cannot afford any serious discontent of a delegation in one negotiation that would motivate this delegation to retaliate, take hostage other negotiations, or jeopardise the results of the entire Presidency. The studies of Kapstein confirm that fairness in international negotiations is necessary to broker deals and sustain support of the parties; not only internationally but domestically as well. Furthermore, agreements that are perceived as being unfair are unlikely to prove durable (Kapstein, 2008: 231). This section presents some of the actions Presidencies undertake to preserve Procedural and Distributive Justices as the necessary foundations of the 'interested consensus' building.

First of all, Presidencies endeavour to prevent the isolation of any delegation; they consequently carry on their efforts to build consensus with the highest number of delegations, beyond the qualified majority that might already have been reached. When facing contestation, the Presidency is therefore advised[44] to reach the ultimate stage where

---

[42] Procedural Justice refers to fairness about the process and the procedures guiding the negotiations; Distributive Justice is the fairness in the allocation of benefits.

[43] Ministry of Foreign Affairs of the Republic of Latvia, Results of the Latvian Presidency of the Council of the EU, 4 December 2016, https://www.mfa.gov.lv/images/infografiks_rezultati_prezidentura_ENG_01_07.pdf. Retrieved 09 September 2018.

[44] Support of and advice to the Presidency rest on the General Secretariat of the Council. They are

all parties 'agree to disagree'; acknowledging that their interests are simply irreconcilable. The 2017 Maltese Presidency has arguably suffered some collateral damage after overlooking this informal norm of 'isolation avoidance'. It occurred at the closing stage of the negotiation on the reduction of emissions of industrial plants and power stations. After a vote imposed by nineteen member states, some accepted more easily than others the Presidency's decision to go for a qualified majority voting. Whereas the Italian minister declared Rome was still "unhappy" whilst conceding that "every country has had to compromise on something", the Polish minister evidently took a more threatening posture by stating that Poland had been "cheated[45]". Justices are also normally served by Presidencies by ensuring a fair distribution of gains over the six-month period; without any or several delegations gaining considerably more than others out of all the negotiations on the Council's agenda. This *modus operandi* translates into an informal norm in Coreper shared once by a Deputy Permanent Representative. He relayed that when chairing a Coreper meeting for a full day, the Presidency must make sure that no national delegation - or group of member states - would appear to be the obvious winner more than once or twice out of the average fifteen to twenty agenda items subject to negotiation on a 'Coreper day'[46]. Presidencies basically endeavour to operate multilateral balancing acts during their term; by distributing, linking, promising, and planning benefits to meet the interests of all members states over the six months of their term.

The signal that equity was expected from a Presidency could not have been sent out more clearly by member states at the first days of the German Presidency in 2007. The Council had just started the negotiation over the aid package to banana producers in the territories of France, Portugal, and Spain. The Presidency was urged by some delegations to include in the minutes of the Council meeting the promise that the aid package would be examined as part of the next annual review of the EU budget. In the meantime, whilst some other member states coupled their position to the benefits they wanted to derive from the larger Common Agriculture Policy reforms they called for, Poland was more patent in conditioning its position to the fate of the forthcoming review of the common market organisation for fruit and vegetables specifically[47].

therefore associated to the actions of 'the Presidency' throughout this dissertation.

[45] *Euractiv.com*, 1 March 2017, http://www.euractiv.com/section/climate-environment/news/eu-ministers-reach-compromise-on-carbon-market-reform/. Accessed 09 September 2018.

[46] Details of Coreper meetings can be accessed at https://www.consilium.europa.eu/en/meetings/calendar/?filters=-3

[47] *Europolitics Agriculture*, 12 January 2007

Such 'distributive convention' has for example lead Coreper, as the coordinating entity of all other Preparatory Bodies, to abort a compromise text originating from a Working Party; it was only because the foreseen draft compromise solution would have either favoured - or disadvantaged - excessively one or several delegations that had already turned out to be obvious winners - or losers - in previous or concomitant negotiations.

2.4.2 Operating 'the Lift'

An essential piece of the mechanics of diplomatic governance is the channelling to the political level of Coreper of all legislative works originating from the lower technical level; they are prepared at the level of the Working Parties and other Preparatory Bodies for a formal adoption by the Council of Ministers (Hayes-Renshaw and Wallace, 2006b). The movement of 'the lift', as this channelling is named colloquially, is usually bottom–up; with Working Parties handing over *dossiers* to Coreper. The issues appear on Coreper's agenda as either wrapped up with an agreement, or unfinished business because they fall outside the Preparatory Body's jurisdiction, mandate, or competences[48]. In the latter case, Coreper's added value is generally of an institutional nature; to determine for example the implementation procedure, or discussing the legal basis of a Proposal. Coreper's intervention might also be political, to handle the 'red lines'; linkages; an external relations dimension; or the budgetary implications of a *dossier*[49]. Whilst a continuous increase of upward movements of 'the lift' has been observed (Olsen, 2010), agendas of Coreper and Working Parties show that *dossiers* also take the downward direction after having previously reached Coreper. Lower technical levels then receive new 'homework' with instructions; guidance; or empowerment to implement in technical terms a compromise solution reached at Coreper level. The function to manage 'the lift' is closely associated with the responsibility of the Presidency to manage the time constraints imposed by the rules of procedure of the Council. Specific deadlines are indeed set for *dossiers* beyond which they cannot appear on the agenda of either Coreper or the Council. Following an informal norm, it is however not unusual at all that these timelines are not fully respected by Presidencies, for the sheer sake of finalising a deal.

[48] The former are registered in Coreper's agenda as 'I' items; the latter as 'II' items.
[49] Prior to reaching formally the agenda of a meeting of Coreper, such issues might be looked at by Groups of *attachés* and counsellors that convene officials working in the permanent representations; or by the specific Group of the 'Friends of the Presidency'.

Both the vertical movements of 'the lift' and the management of timelines are normally left in the hands of the two Preparatory Bodies in charge of preparing the agendas of Corepers I and II; namely the *Mertens* and the *Antici* Groups respectively. With different salience attached by delegations to the various items under negotiation over the six-month tenure, the role of the Presidency in Coreper is to secure a deal while managing the delegations' strategic objective to be as close as possible to their initial positions (McDonagh, 2015).

Looking at the Presidency's procedural and distributive functions examined above, it can be argued that the Presidency performs the three tasks that Berridge associates with mediation; namely good offices, conciliation and arbitration (Berridge, 2015: 252). Using evidence from climate negotiations, Monheim confirms that effective negotiation management increases the probability of an agreement in multilateral negotiations; notably with highly capable organisers, and a lead organiser with authority (Monheim, 2016). For international negotiations based specifically on trade related issues, Odell observed that the odds of breaking deadlocks rise in a negotiation that involves a mediator and general agreement by consensus (Odell, 2009). In the 'chocolate case', the mediation has been extensive; with 'the lift' travelling up and down. The Working Party level was entrusted with the technical tasks of detailing the list of authorised other vegetable fats; drafting provisions on the double labelling; and examining the compatibility with existing or future GMO legislation.

It should be noted that research has confirmed some blurriness in this classical separation of powers between the Council layers presented above. After having showed that Working Parties also negotiate on political issues, Fouilleux *et al.* reach the conclusion that Working Parties are vital arenas for drawing up EU policies (Fouilleux, de Maillard and Smith, 2005: 611). This is even more true when the Presidency needs to manage a high number of accommodations when facing protectionist bargaining and national political rationalities. In a way, the Presidency offers to EU diplomatic governance the decisional function of managing conflict as a strategy alternative to hostile confrontation (Zartman, 2010: 163). It delivers an integral part of the function of international organisations; which is not to prevent, or even fully resolve, distributional conflict. Instead, it is to organise bargaining fora that help the states manage conflict effectively (Schneider, 2011).

The active role or leadership of the Presidency in negotiations has already been called for in 1979 by three *Wisemen* in a report dedicated to the functioning of European institutions (Council of the European Community, 1980). To conclude this section, Presidency leadership consists in a threefold 'mediational', technical, and political management of all circular movements between the Working Parties, the *attachés*, and Coreper levels.

2.4.3 Institutional Movements

There are strategic and institutional bonds uniting the Presidency and the Commission in EU diplomatic governance. This section elaborates on the conclusion of Ponzano *et al.* that the primary role of the Commission has shifted from one of powerful initiator, to one of 'honest broker' (Ponzano, Hermanin and Corona, 2012: 43); a new function devolved '*par excellence'* to the Presidency of the Council. Strategically speaking, the Presidency and the Commission are interdependent to the extent that they share the same objective to succeed in the adoption of a Proposed legislative text by the Council.

In colloquial terms, it takes two to tango and to perform in a dance. Sometimes one leads, the other one follows; and *vice versa*. Presidencies must for instance wait for the Commission to table a legislative Proposal for adoption by the Council. Article 17(2) of the Treaty on European Union (TEU) prescribes that Union legislative acts may only be adopted on the basis of a Commission Proposal, except where the Treaties provide otherwise. This is the case with article 76 TEU authorising a Proposal to originate from the initiative of a quarter of the member states in the areas of judicial cooperation in criminal matters and police cooperation[50]. Any Presidency is thus dependent on the annual legislative programme of the Commission. Once the Proposal reaches the Council, the Presidency is further dependent on the Commission's willingness to amend the terms of its Proposal to mirror the compromise ultimately presented by the Presidency. Without the green light of the Commission, the Presidency compromise text would need to be adopted by a unanimous vote in the Council[51].

[50] The legal basis used by twelve member states to present in March 2010 an initiative for a European Protection Order has been fiercely contested by the Commission. Official Journal, 2010 C 69/02.
[51] Article 293(1) TFEU: "Where, pursuant to the Treaties, the Council acts on a proposal from the Commission, it may amend that proposal only by acting unanimously (...)."

The Commission equally needs the Presidency to work out a deal and restrain the resistance of a critical mass of delegations in the Council. In practice, the Commission has often engaged in what can be called a 'pre-accommodation' or 'soft consensual' exercise; it entails the drafting of a Proposal in which the scope or policy ambitions have been deliberately watered down in order to facilitate an agreement between member states. The Commission would propose a quite neutral legal instrument, in order to avoid favouring either the supporters or the opponents of a new European legislation in a specific policy area. Three cases may serve as some evidence of the Commission's calculus to make the task of the Presidency easier, and the outcome of its consensus building efforts more likely.

First, in the case of the Services Directive - or the posting of workers - the text proposed by the Commission in 2004[52] did not much more than consolidate what had already been established by the case law of the European Court of Justice. In particular, the central mechanism relying on the principle of the 'country of origin' was merely given further legal scope after having already been established in Directives on banking and insurances, E-commerce, or televisual broadcasting. Interestingly, the Proposal has sparkled considerably more opposition outside the Council; in circles probably less informed about the cautiousness of the Commission.

Secondly, when proposing new legislation on plastic bags, the Commission faced article 27 of the Treaty on the Functioning of the EU (TFEU) which imposes on the institution to take into account the extent of the effort that certain economies showing differences in development would have to sustain. The information collected by the Commission from the impact assessment - an operation taking place in the drafting phase of its Proposal - was one serious indicator of the resistance to be expected in the Council. The Commission proposed accordingly to simply revise the existing legislation on packaging and packaging waste[53]; to establish the obligation for member states to reduce their consumption of lightweight plastic carrier bags, but without setting any specific target; and to leave member states to decide among the measures to reach the targets they can freely determine themselves[54].

[52] Proposal for a Directive of the European Parliament and of the Council on services in the internal market, COM (2004) 2.
[53] Directive 94/62/EC.
[54] Proposal for a Directive of the European Parliament and the Council amending Directive 94/62/EC on packaging and packaging waste to reduce the consumption of lightweight plastic carrier bags,

The third evidence can be found in the Proposal for the 'chocolate Directive'. The Commission did not propose to either authorise or prohibit other vegetable fats; instead, and in accordance with the principle of subsidiarity, member states were given the option to decide individually themselves whether or not to authorise the use of vegetable fats in their national products[55].

The *rationale* of such anticipatory calculation has been justified and substantiated by some cases where the Commission did indeed experience strong opposition against its Proposal in the Council. One case involved the revision proposed for the maternity leave Directive. The Commission had to withdraw its Proposal seven years after its publication, and admit that it could not reverse a majoritarian opposition in the Council[56]. For the same reason, the Commission withdrew a 2011 Proposal on Common European Sales Law; and another one concerning the minimum volume of oil stocks to be maintained in each member state. The Commission somehow also indirectly confessed its helplessness when planning the withdrawal of Proposals as part of special programmes and initiatives that would allow the co-legislators (the Council and the European Parliament) to "focus their attention on the priority files that have a realistic chance of making progress[57]". In passing, one author claims that a small part of the reaction in the Council is also influenced by the nationality of the Commissioner who initiated the Proposal. After having analysed 687 contested legislative Proposals voted upon between 1999 and 2014, Killermann found that a member state is less likely to vote against a Proposal carried by the Commissioner bearing the nationality of that member state (Killermann, 2016).

On occasions, the Commission took an opposite approach; in sharp contrast with a pre-accommodation or soft-consensual posture. The institution decided instead to stand up to the Council, and to embrace a genuine political stance (Ponzano, 2002).

COM/2013/0761 final.

55 COM/95/0722 Final. For a detailed description of the Proposal when published, see European Parliament, Directorate-General for Research, Proposal for a directive relating to cocoa and chocolate products: consequences for exporting and importing countries, Working paper W-14, no. 1/1997, http://www.europarl.europa.eu/RegData/etudes/etudes/join/1997/166602/DG-4-JOIN_ET(1997)166602_EN.pdf. Retrieved 09 September 2018.

56 European Commission, *Press release*, Delivering for parents: Commission withdraws stalled maternity leave proposal and paves the way for a fresh approach, Brussels, 01 July 2015. http://europa.eu/rapid/press-release_IP-15-5287_en.htm. Accessed 09 September 2018.

57 European Commission 2018 Work Programme, COM(2017) 650 final. Reference is primarily made here to the Regulatory Fitness and Performance Programme (REFIT) of 2014, the Better Regulation Programme of the Commission of 2015, and the Inter-institutional Agreement of 13 April 2016 on Better Law-Making.

This has occurred in situations where the Council could have forced a final agreement upon the Commission by reaching the unanimity imposed by Article 293 TFEU to overrule the Commission in the negotiations. The same article protects however the preferences of the Commission by stating that "as long as the Council has not acted, the Commission may alter its Proposal at any time during the procedures leading to the adoption of a Union act." This provision allows the institution to prevent the Council from taking any decision. The Commission has in fact 'pulled the rug under the Council's feet' a few times by operating 'political' withdrawals of Proposals. This has been the case for Proposals on a Food Aid and the Erasmus Programmes; the right of residence; taxation of travellers; and pension funds (Ponzano, Hermanin and Corona, 2012: 40). An attempt of the Council to restrain this prerogative of the Commission was turned down by the European Court of Justice in a judgement that recognised the legitimacy of the Commission's decision to withdraw a Proposal for the purpose of preserving the objectives assigned to the EU by the Treaty[58].

Admittedly, the position of the Commission in negotiations is primarily dictated by the objectives ascribed to the EU by the Treaty[59]; this can be attested by three sources in particular. First, the institution is bound by Article 17(1) TEU to promote the general interest of the Union; and to take appropriate initiatives to that end. Second, its Proposals of 'harmonisation' in the area of the Internal Market need to be based on a high level of protection for health, safety, the environment, and the consumers[60]. Finally, delegations may want to negotiate specific derogations for their own unilateral benefit; the Commission receives however the duty from Article 27 TFEU to make sure they are of temporary nature, and without any disturbing effect on the functioning of the Internal Market.

To conclude, the Presidency and the Commission share a mutual interest to jointly channel the interstate negotiation towards an agreement once a legislative Proposal has been put forward. The former in order to capitalise on a success; the latter to serve the Union's objectives. This joint endeavour generally materialises in so-called 'briefing sessions' held between the Commission and the Presidency supported by the General Secretariat of the Council.

[58] Case C-409/13, Council v. Commission, Judgement of 14 April 2015, C:2015:217.
[59] In particular article 3 TEU.
[60] Article 114(3) TFEU.

They take place prior to any formal meeting of a Council Preparatory Body. The two institutional actors review the negotiations ahead; consider the ingredients of a possible compromise; and take into account the preferences of the Commission. All in all, the Presidency and the Commission weigh the conditions under which any deal would be better than no deal for both themselves and the national delegations.

Chapter 3 Normative Derivatives and Propositions

This chapter presents some normative propositions for the efficacy of national negotiation strategies; they are prescriptions derived from the previous analysis of situations of negotiation between member states. They are further based on a praxeological as well as theoretical accounts of the factors of success and efficiency criteria applicable to interstate negotiations. In order to highlight and contextualise the variables that the dissertation aims to extract and use from the situational analysis, the chapter draws on a theoretical model designed by Lax and Sebenius. Their model submits that every negotiation is three dimensional. The first dimension groups variables relating to the people and processes at play. It includes notably communication, bargaining tactics, cross-cultural manifestations, and trust aspects. The second assembles variables composing the deal-making process; they relate to the substance of the negotiation, the calculation of the outcomes, and the alternative plans. The third dimension congregates the variables playing a role in the context, set up, and architecture of the negotiation. They intervene in the preparation phase of the negotiation and the drafting of the mandate of the negotiators. This model is also useful to accommodate propositions that are destined to apply not only to situations of negotiation, but equally to conditions of bargaining; *id est,* when distributive impetuses and tensions put pressure on the integrative patterns of consensus-based interstate negotiations[61]. The three sections of the chapter reorder the dimensions of the model to cater for normative propositions pertaining successively to strategic and contextual factors; process related variables; and the interpersonal level. They present a triple angle to normatively bear on both negotiation and bargaining situations.

3.1 Praxeological Norms

In the context and power games of EU diplomatic governance, the first appropriate way to determine standards of efficiency and effectiveness for national delegations is by gauging their satisfaction or success. The notions of satisfaction and success are associated with different levels of payoffs or advantages; the latter providing larger gains than the former.

[61] Situational normativism speaks in this instance of the challenge of 'discontinual changes'.

What is under consideration is essentially the likelihood of cashing in the result that one voted for, irrespective of whether one vote was crucial for it or not (Laruelle, Martinez and Valenciano, 2006). In practice, the best players are the national delegations reaping the highest bargaining satisfaction measured by two criteria. First, the shortest distance between their initial position and the final terms of the compromise text agreed in the Council. Second, the number of their most salient interests fulfilled and mirrored in the joint text. In the field of environment, Knill and Duncan argue that member states with already high standards have a better chance of bargaining satisfaction; only because their negotiating positions defend standards not too distant from the levels proposed by the Commission in its legislative initiatives (Knill and Duncan, 2007). The highest bargaining satisfaction is noted by Arregui for eastern member states in the specific area of financial issues. His research further highlighted that member states of smaller size reach a higher bargaining satisfaction than larger member states when it comes to regulatory issues in general (Arregui, 2016). Smaller member states also appear to perform better in the studies of Golub. It is especially true for negotiations involving issues that bear a salient or important interest for them. The author concludes that the consensus dominating among member states does not prevent some member states to win largely more than others; with large countries like France, Italy, and Germany performing especially poorly (Golub, 2012b). In their analysis of decisions adopted by majority votes in the Council of Ministers, Van Roozendaal *et al*. reach a comparable conclusion. They designate Greece, Luxembourg and Ireland as the member states having most often participated in winning coalitions. Seemingly, the three states were willing to sacrifice the most policy congruence to be part of the appropriate winning coalitions (Van Roozendaal, Hosli and Heetman, 2012).

The research of Panke adds valuable criteria of success by finding out that bargaining behaviours and distributive strategies are only effective on two conditions. First, if they are used by delegations that have previously secured a sufficient capital of goodwill; and second, if these delegations have offered uninterested mediation efforts to others in earlier rounds of negotiation (Panke, 2012). This would imply that 'winning' delegations invest more in resources and means to influence the negotiation process than they rely solely on their voting capacity. According to Cross, the influence of a member state can notably be derived from its engagement and capacity to make its position known over the course of the negotiations.

It is measured by the number of interventions of the national representatives of the member state in official meetings; its policy positions relative to the other actors' positions; and the power - or resources - it derives from its size (Cross, 2011; Cross, 2012). The studies of Panke confirm that the more 'active' national delegations are, the more likely they will be 'punching above their weight'; particularly if they represent a member state of small size (Panke, 2012: 112). The role of 'engagement' as an essential factor of success is corroborated by two sets of research focusing on member states with opt-outs. Naurin and Lindahl first observed that the representatives of member states having opted-out of the euro have managed to maintain a good degree of positive reputation from the other representatives, despite being generally perceived as free riders. They seem to derive this influence from their high level of network capital; that is the degree to which they are mentioned as partners or contact points by the other representatives (Naurin and Lindahl, 2010). Adler-Nissen also studied the fate of the British and Danish representatives, this time as the 'champions' of opt-outs in Justice and Home Affairs matters. She reports that they have not been pushed 'out of the door' by their peers because of their status of 'outsiders'; they have instead kept their influence through purposely participating in the preparation, deliberation and negotiation of legislative instruments their country would ultimately not be subject to. They have engaged in the process essentially by offering mediation efforts and making proposals designed to bridge gaps between positions of the other delegations (Adler-Nissen, 2009).

3.2 Dimension 1: Strategic Optics

An earlier section has presented the strategic choices that national delegations face when participating in EU diplomatic governance. The current section translates some of them into particular normative propositions aiming to ensure the efficacy of national negotiation strategies.

3.2.1 Managing Impressions

At the outset, a general assessment of the 'bargaining image' of a delegation needs to be operated in order to assess its bearing on the routine of the decision-making system. It is part of the indispensable 'impression management' to secure the benefits of any later move in the negotiation process (Friedman and Shapiro, 1995: 250).

Roering *et al.* demonstrated that the intention to hold a strong bargaining image to seek an upper hand in the negotiation process should be offset by the risk of social disapproval and the possible retaliation of the counterparts; especially if they would sense a violation of justice or equity norms (Roering, Slusher and Schooler, 1975). The consequences of choosing to enter into negotiation with positional commitments should in particular be discerned. Positional commitments, also known as 'irrevocable commitments', are often combined with a threat to break off negotiation if the other party does not accept one's offer. They are only effective if failure to reach an agreement is costly to the target. Just like with threats, positional commitments must be credible to be effective. They are not very credible if it is clear that their user will be badly hurt by no agreement (Carnevale and Kim, 2012: 679). The studies of Fleck *et al.* demonstrate that the use of competitive tactics perceived as inappropriate by the counterparts are also the sources of escalation and more impasses (Fleck, Volkema and Pereira, 2016). Elms found out that trade officials engaged in arduous bilateral trade negotiations reached the most durable agreements by using an integrative, or value-creating, strategy and avoiding the use of threats. By contrast, a highly distributive, value-claiming strategy, coupled with loud public threats, is unlikely to result in a durable agreement; it frequently leads instead to deadlocked negotiations (Elms, 2006). Jönsson claims that counterparts become more concessionary if the negotiation is not presented as a competitive '*bazaar*-like' haggling (Jönsson, 2002: 212). For White *et al*., one parameter of any negotiation strategy should therefore factor in the degree of face threat sensitivity ('FTS') of the counterparts to excessive positional commitments. They offer to define 'FTS' as the likelihood that an individual will have a negative affective reaction to a face threat (White *et al.*, 2004). In the Council, the potential for escalation has been revealed by the research of Arregui and Thomson; they showed that when a member state's closest partners violate the norm of consensus, it is more likely to violate the norm itself (Arregui and Thomson, 2014: 706). In such cases of an impasse in international negotiations, the research of Odell further confirms that the odds of breaking a deadlock will be higher if parties use some cooperative strategies (Odell, 2010).

To synthesise this first strategic proposition, the optic of a delegation when approaching a negotiation should be to align its bargaining image with its 'political will' to negotiate; the value of its BATNA; and the expectations of other delegations that are embedded in the informal norms of any system of 'permanent' negotiation.

3.2.2 Double Lenses Revisioning

The second normative proposition recommends a flexible relationship between the representatives of a member state engaged in 'Brussels' based negotiations, and the 'capital' providing them with a mandate of negotiation. In the double level playing game, 'clever players' should be empowered to spot a move on one board that will trigger realignments on other boards; enabling them to achieve otherwise unattainable objectives (Putnam, 1988: 434). Representatives should be given the latitude to operate as double revisers (Thuderoz, 2017); with the appropriate autonomy to oscillate between the domestic instructions and the opportunities appearing - or incited - in the course of the 'outside' negotiations. This requires a profound knowledge about the domestic policy style and organisation. After judging the performance of Dutch negotiators and their knowledge of the 'home mechanics', Van Keulen concludes that the ability of a government to influence EU level proceedings depends on 'what happens at home' (Van Keulen, 2004: 209).

To make their 'pendulum act' between the negotiation battle field and the 'generals at home' optimally effective, national representatives ought to be equally immersed in the upward and downward movements of the 'lift'; *id est,* between the technical and political levels inside the Council. The levels of Coreper and above are the most appropriate stages for a negotiator with a smaller win-set at home to benefit from Schelling's 'paradox of weakness'; whereby empathy or support may be claimed from the international counterpart (Schelling, 1960). This is where and when a delegation can tactically ask its counterparts to be overtly isolated by them during the negotiation, so that the home-based authorities could contemplate this threat as a sufficient motive to change their lines. It is not uncommon that a complementary pressure would be exerted by the Commission through covertly leaking information, so that actors outside the Council would become tempted to weigh on the member state's position.

This individual engagement on two fronts aligns with Fisher's claim that a negotiator should not be treated like a dog on a leash, with the length of the leash being gradually extended. Rather, a negotiator should be treated more like a handyman who is asked to undertake different tasks at different times (Fisher, 1989: 37); this includes to be authorised to come 'back home' with a different perspective.

3.2.3 Adjusting the Interests

The domestic awareness and the controlled oscillation of the representatives should serve the purpose of enabling them to best manage the member state's interests, beyond simply expressing a national position. The 'interested consensus' mechanisms of EU diplomatic governance requires negotiators to have a sense of 'what they can give and what they could get' during the compromise building processes. They should therefore have a sufficient sense of the national interests to be bargained and integrated in the final package deal worked out by the Presidency. Reaching out for an agreement implies not only to cope with the tangible needs and a sufficient level of satisfaction; it mostly imposes to manage all interests in general. Interests can be described as the desires, or concerns and fears, that underlie the positions of delegations (Ury, Brett and Goldberg, 1988: 5). As a third normative proposition, this section suggests to undertake a series of preliminary assessments for an effective administration of national interests. Four of them are recommended in particular.

First, the representatives should be sufficiently conscious and knowledgeable of the costs and consequences of a breakdown or failure of the negotiation. The flexibility of a delegation should be determined by the value of its BATNA; as well as by the economic, financial, political, or legal consequences of failing to agree.

Second, all the interests should be categorised and hierarchically ranked by value, so that they can be appropriately secured or traded. Drawing on the categorisation of Lax and Sebenius (Lax and Sebenius, 1986), four types of national interests can be distinguished in the framework of EU diplomatic governance. The 'substantive' interests cover the needs that are described as tangible or material; they can be associated with the aforementioned measurable consequences. The 'relationship interests' embrace the motives to preserve the appropriate level of confidence and Procedural Justice between interdependent partners. The third family encompasses the 'process interests'; they are associated with the linked or postponed gains that can be derived from logrolling and 'circular barters' in programmed or repetitive rounds of negotiations; they motivate the quest for Distributive Justice. The final category groups the interests in 'principles'; they might for instance be the protection of the environment, safeguarding ethics, or a stronger European Union.

The third reckoning should single out the interests of a ‘sacred’ nature, and distinguish them from ‘pseudo-sacred’ ones. ‘Sacred’ interests should be excluded from the realm of negotiation by a clear red line. For that matter, they should be justified and legitimised; they might otherwise be transgressed or yield confusion as to their genuine nature.

Finally, an interest-based preparation should identify possible Confidence Building Measures - or goodwill gestures - able to trigger a positive spin in a mutual exchange of concessions. Atran and Axelrod found that making symbolic concessions of no apparent material benefit might open the way to resolving seemingly irresolvable conflicts (Atran and Axelrod, 2008).

3.2.4 Timing

Research has unsurprisingly offered evidence that governments engage more eagerly in bargaining under the pressure of an urgency to act (Bearce, Floros and McKibben, 2009). Scientific literature judges however quite negatively the effect of time pressure on the process and outcome of negotiations. After studying the effect of time pressure in 68 episodes of international territorial conflict negotiation, Pinfari reaches a twofold conclusion quite relevant for Council negotiations. First, agreements concluded under time pressure tend to be more fragile and less durable. Second, the negative impact of time pressure on negotiations is amplified in complex decision making; as well as when a broad range of debated issues is at stake (Pinfari, 2011). Patton and Balakrishnan point specifically at the challenge of operating the necessary linkages when the time available is restricted (Patton and Balakrishnan, 2010). A lack of time may further force the negotiating party to invest everything in the strategic preparation and delimitation of the possible payoff; without doing the proper calculation about the best conditions for enforcement. This may therefore push them to increase their demands and positions, hereby fostering costly standoff that will impede cooperation (Fearon, 1998: 296). De Dreu revealed moreover that negotiators under high time pressure are less likely to revise their initial distributive negotiation strategy and reach integrative agreements (De Dreu, 2003). This section builds on these preliminary contextual considerations on timing to present three normative propositions in the format of specific recommendations.

First, negotiators should ideally plan moderate deadlines at both stages of the two-level game involving domestic partners and international counterparts. The studies of Moore have confirmed that moderate deadlines improve the outcomes for negotiators who are eager to get a deal quickly, because the 'passage of time' was costly to them (Moore, 2004). Time pressure can either increase - if the terms are unacceptable - or decrease - if the terms are acceptable - the perception of risk associated to a negotiated solution (Druckman, 2009).

Second, if a delegation is pressured by time to negotiate and to reach an agreement, research on bilateral negotiation configurations has shown that sharing information on this constraint with the counterparts can translate into greater payoff for the party with the deadline (Gino and Moore, 2008: 90).

Third, a delegation should plan and time the delivery of the concessions it has identified during the preparation phase. The optimal strategy to make effective concessions (*id est* offers able to trigger a symmetrical gesture from the counterparts or secure a compromise solution) should take account of a timing occurrence acknowledged by both research and practice. Most negotiations are indeed subject to an acceleration of the exchange of concessions between parties towards the end of the time allotted to them; at the so-called 'last' or 'eleventh' hour. The indicative Pareto rule applying in this instance provides that 80 percent of all concessions recorded in a negotiation are delivered in the last 20 percent of the entire time made available to the negotiation[62]. The value and effectiveness of concessions depend therefore on the timing of their delivery, and on the pressure to agree exerted by bargaining dynamics.

3.3. Dimension 2: Bargaining Dynamics and Deal-Making

This section collates prescriptions pertaining to the colloquially called 'dance' between negotiating partners. The term refers to the moves, positioning, signals, and reciprocated actions used by the parties to maximise their unilateral satisfaction and share of a global package - or 'pie'.

---

[62] The Pareto rule claims that a minority of causes can generate a majority of the effects. See notably Bazerman and Neale (1994); Thompson (2006); Pruitt (1981); Lewicki *et al.* (2015); and Lewicki and Hiam (1998).

The normative propositions to manage these bargaining dynamics are grouped in three categories. They address successively the gauging and use of bargaining power; the mechanisms of concession-making and reciprocity; and the necessary 'seduction' during the institutional rotational management of EU diplomatic governance.

3.3.1 Adjusting Power

Any delegation should assess the tangibility of its bargaining power before deciding to use it in negotiations. Bargaining power is the capacity of a party to produce an agreement on its own terms (Chamberlain and Kuhn, 1965); it is the ability to 'not negotiate' because of bearable alternatives (Wallihan, 1998: 261). It can also be used through deterrence to require concessions from the weaker counterparts (Kecskemeti, 1958). This threefold premise needs to be adapted to the patterns of reiterative negotiations such as the Council's. Basically, states are less willing to capitulate to coercive threats when they expect future interactions (Sechser, 2016); *id est,* when power might be brought to their side by issues under later negotiation. Hence, the two central variables believed to affect international bargaining are relative power - defined as the relative ability to manipulate costs and benefits; and relative resolve - defined as the relative saliency of the issues at stake (Schneider, 2005). Drawing on this contention, the first normative proposition recommends to scale and improve the 'issue power' of a delegation. This measure is composed of alternatives, commitments, and the ability to control the negotiation process; it comprises also the diplomatic resources enabling socialisation, intelligence gathering, and general engagement in a negotiation process.

The second proposition pertaining to the management of bargaining power is to foresee or anticipate both the positive effect of a momentum and the favourable context to negotiate. Some member states may feel the need to negotiate more than others, depending on their policy objectives; interests; and alternatives. Bjola's model to predict the outcome of international negotiations translates the intensity of this need to act into the Relative Strength Negotiation Index. The greater the thrust to negotiate, the higher the momentum to reach an agreement. This strength may however be neutralised by a negative negotiation context with parties displaying excessive unilateral attitudes and assertive behaviours. The author measures the quality of the negotiation environment by the Negotiation Contextual Conduciveness Index (Bjola, 2015).

The power to influence the course of the negotiation towards a successful outcome will merely depend on the two indexes reaching positive values.

A third normative proposition may help control these values; it suggests to take a sufficiently ambitious and assertive position, without however alienating the counterparts. A bold positioning will need for that matter to abide by two rules. First, the position ought to be justified and legitimised with a reasoning and justification. Second, the fall-back position of the delegation should be realistic; this means that the first concession planned should be reasonable in size, so that the position expressed initially can be retroactively judged by the counterpart as comparatively credible and not abusive.

All in all, a delegation should assess its effective bargaining power in international relations and EU interstate negotiations in light of the tangibility of essentially four sources[63]. The first combines the overall power resources of a country, its voting capacity, and its diplomatic endowment to influence a permanent system of negotiation. The second source lies in the quality of the delegation's BATNA. The third results from the constraints imposed or not upon the government by domestic 'ratification requirements' and transparency. The final source rests on the multitude of interests that enables a delegation not only to arbiter several issues without being dependent upon a few only; but to additionally participate to a higher number of winning coalitions.

3.3.2 Reciprocating

Delegations should scrupulously factor into their strategic and bargaining calculations a norm that has been ascertained in all negotiation configurations; it establishes that parties adjust reciprocally to the offers they receive. Any move of a delegation therefore determines the nature - positive or negative - and magnitude of the counter-offer, regardless of the bargaining power of that delegation (Kahneman, 1991). Negotiators tend to reciprocate their counterparts' compromising or dominating behaviours (Butt, Choi and Jaeger, 2005; Caruso, Epley and Bazerman, 2004). They might even be insensitive to the size or value of a concession made to them if the counterpart does not demonstrate a sufficient general willingness to cooperate or solve a problem perceived as being common to all parties (Malhotra, 2004).

[63] Based in part on the description of Dür and Mateo (Dür and Mateo, 2004, p. 565).

The normative proposition of this section is essentially to take account of, and anticipate, the respect longed for by the counterparts; and to assess appropriately their expectation for Procedural and Distributive Justices in the bargaining dynamics. This implies notably to measure the degree of 'reciprocation wariness' of the other delegations. It indicates the inclination of negotiators to refrain from being cooperative originating from their fear that their counterparts could abuse them by not reciprocating their cooperative or positive stance (Zhang and Han, 2007).

It can safely be assumed that within EU diplomatic governance, the higher the cohesiveness of a group, the lower the level of reciprocation wariness[64]. For a former Coreper member, a confrontational style of negotiation is undeniably less effective than moves preparing the grounds for a positive reciprocation. He confirmed that if a member of the Group is able to show flexibility when colleagues have serious concerns on some issues, those colleagues will more likely be reciprocating the goodwill gesture when the member in turn expresses an important concern on a different issue (McDonagh, 2015). He was merely describing the mechanism of 'diffuse reciprocity' considered by Elgström and Jönsson as a foundation of EU negotiations (Elgström and Jönsson, 2000); it is a process of which another Coreper member once said that decision-making in the Council would hardly be possible without it (Lempp and Altenschmidt, 2008: 521). With 'diffuse reciprocity', no particular exchange of vote or *quid pro quo* is really identified; an informal norm of fairness guarantees nonetheless that later favours will be exchanged in future settings or rounds of negotiation (Welch Larson, 1998).

To conclude, delegations should take account of the three general reciprocation patterns detected by Druckman and Harris in bargaining interactions. First, negotiation counterparts adjust in the direction of the opponent's previous move; this pattern has been called 'cooperative responsiveness'. Second, they prefer comparable behaviours; adjustments are made in the direction of reducing the apparent disparity in moves or concessions to reach equal exchanges. Third, negotiators are less concerned about their opponent's general strategy than with ensuring that concessions are comparable from one round to the next (Druckman and Harris, 1990).

---

[64] The studies of Zhang and Han confirmed that low-wary negotiators are more likely to be pro-social; engage in direct information sharing; and perceive their counterparts more positively after the negotiation.

The case for 'reciprocation awareness' is further made by Filzmoser and Vetschera in their research which shows three supplementary patterns. Negotiations in which insistence is used are more likely to end in an impasse and fewer efficient agreements; negotiations exhibiting more concessions are more likely to end in an agreement; and negotiations containing proposals of trade-off equally lead more often to an agreement (Filzmoser and Vetschera, 2008).

3.3.3 Observing the Rotations

'Transactional compromises' or logrolling are key pieces of the 'interested consensus' building mechanisms. They might involve only the provisions of the same legislative text or policy under negotiation; or link issues belonging to different *dossiers* and policies of the EU – or the Presidencies' agendas. Since the management of trade-offs lies fundamentally in the hands of the Presidency and the Commission, every delegation should closely anticipate and watch their concerted moves. This section suggests three national endeavours in particular to predict, forestall, or accompany the earlier labelled 'rotational' management.

First, delegations should identify the possible 'forced linkages' (Sebenius, 1983: 287) they might either benefit from, or be harmed by, depending on whether they have a positive or negative leverage when a variety of issues are linked in a 'transactional compromise'.

As a second line of action, delegations should scrutinise the moves of the Presidency; essentially for two main reasons. First because the Presidency's primary objective is to break-up the coalitions resisting its compromise building plans. When belonging to such a coalition, delegations ought to trace the Presidency's offers to the individual members of the coalition. Determining the attraction of such offers is one of the few means to assess the sustainability of a coalition. Presidencies should further be closely monitored to make sure they proceed with the appropriate legitimacy and authorisations, in particular at the end of their term when an agreement might be in sight and improve their final account of 'victories'. One Presidency has for example been excessively zealous to declare the adoption of an agreement during the 2004 negotiations on software patent when the conditions to do so in the Competitiveness Council were not exactly sufficiently ripe.

The Danish delegation later complained for having been coerced to vote in favour of the compromise; the German minister regretted being pressed to accept amendments contrary to his instructions; and the Polish delegation protested its opinion had not even been asked[65]. Needless to say, these delegations' message should have reached the Presidency more effectively before the compromise was presented for formal adoption.

Following this normative logic, the object of observation should also be the 'lift', and how it is operated - or not - by the Presidency. If there are widespread resistance and signals of opposition to the plans of the Presidency at the Working Party level, delegations should make sure the matter - and all due reservations - take the 'lift' to the appropriate political level in the Council. In contrast, Presidencies have been witnessed to bring matters to a higher non-technical level with the concealed purpose to slow down the negotiation. This would also be the case when a Presidency has a national interest at stake that would need to be sacrificed for the benefit of reaching an agreement in the Council.

Finally, delegations should carefully read the alliance between the Presidency and the Commission. The latter uses the information it possesses on the member states' interests to influence the terms of the compromise worked out informally with the Presidency. It is not rare that Commission services have already blueprinted a possible compromise text before the formal negotiation even starts. In fact, the studies of Arregui and Thomson reveal that the closer a member state's negotiating position is from the European Commission's position, the higher its bargaining satisfaction will turn out to be (Arregui and Thomson, 2014). Any delegation can improve its bargaining satisfaction by engaging with the Commission on two successive fronts. First, liaise with the institution at the early stages of the decision-making process, before the Commission presents its legislative Proposal and position. Then, lobby the Commission in the margins of the negotiation to mirror as many interests as possible in the final compromise text the Commission will help the Presidency to work out. This proposition meets the view of a former Coreper member who thinks that getting the support of the Commission is sometimes the most effective way to secure influence in the Council's joint decision-making process (McDonagh, 2015: 6).

---

[65] Jennifer L. Schenker, Ministers accused of making unauthorized last-minute deals: EU's software patent policy under siege, *International Herald Tribune*, 8 July 2004.

3.4 Dimension 3: Cultural Compromise Building

The dissertation submits that the determining factors relating to individual facets of the negotiators in the framework of EU diplomatic governance are not their personality, psychological traits, or even state of mind. It claims instead that the system is essentially impacted by the interpersonal interactions and the behaviour of negotiators that are influenced primarily by their individual cultural preferences. In as much as a multilateral compromise is based on the mutual concessions of needs and interests of national delegations, negotiators will need to accommodate some of their individual cultural preferences to successfully engage in EU diplomatic governance. This section proposes to view these preferences as the 'behavioural positions' and 'personal inclinations' of negotiators. It is argued that cross-cultural differences affect every factor and variable of the EU interstate negotiation system analysed in this dissertation so far; in particular the patterns pertaining to strategic choices, 'informality', and socialisation. The propositions in this section intend to provide the normative approach to identify and adapt to the differences of cultural origin between individual negotiators. Without awareness of such differences, negotiators run the risk of jeopardising the effectiveness and sustainability of their strategic calculations and bargaining dynamics; a simple '*faux-pas*' may be disproportionally harmful to the cultural norms of their counterparts. 'Culture' is referred to here as the cumulative result of experience, beliefs, values, knowledge, and educational background; acquired or created by groups of people or social organisations over the course of generations[66]. It provides models and norms for acceptable day-to-day communication or social interaction (Moore and Woodrow, 2010: 5).

3.4.1 <u>A Rotational Analysis of Cultural Norms</u>

The cultural differences between negotiators are approached in this section through a set of variables and overarching categories inspired by the wheel shaped model of Moore and Woodrow (Moore and Woodrow, 2010). This model represents a sequenced rotational analysis of the cultural factors and variables that determine the individual preferences of negotiators. It supports that the personal inclinations of the negotiators are nurtured by their domestic environment, social structures, and collective memory.

[66] This result might originate from the educational background, the professional affiliation, or of course the country of origin of a negotiator. This section tenders therefore that the term should be declined into the plural, and understood to mean 'cultures'.

According to this model, negotiators have different cultural norms or preferences to represent their member state; express and use power; solve conflicts; and manage problems or divergences. More specifically, the attitude of national representatives differs as to the ways and means to communicate and share information; the respect of time imperatives and formal logistics - for example in socialisation occurrences; the outcome of relationships; the weight of hierarchy and status; and the respect of rules. The next section relies on general research on cross-cultural negotiation, as well as praxeology, to offer a normative lens on how the cultural norms (the attitudinal positions and individual preferences) materialise concretely in the situations of EU diplomatic governance as modelled by the 'wheel of culture' reproduced below.

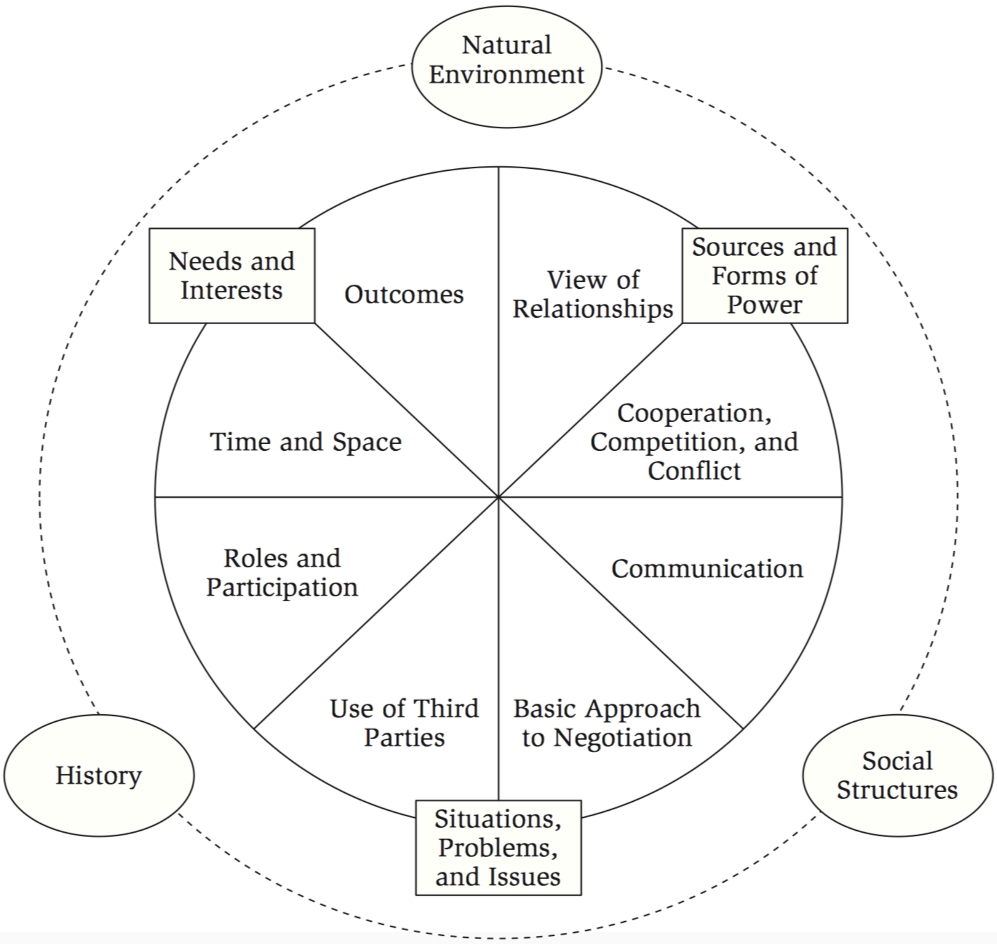

Figure: The 'wheel of culture'. In Moore, C. W., and Woodrow, P. J. (2010). *Handbook of Global and Multicultural Negotiation*. San Francisco: Jossey-Bass, p. 23.

3.4.2 Accommodating Cultural Preferences

The first set of cultural preferences negotiators need to accommodate concerns their basic approach to negotiation; problem solving; and consensus building. On the one hand, some delegates might tend to naturally enter negotiations with an integrative and consensus building leaning (Liu, Friedman, Barry *et al.,* 2012); on the other, culturally different delegates might spontaneously take up a negotiation with a conflictual management style (Morris and Fu, 2001); they would more systematically use competitive tactics, and avoid breaking down the outcome of the negotiation into joint profits (Gelfand and Brett, 2004; Gelfand and Dyer, 2000). Delegates belonging to the former group might for example be quite perplex at the 'tradition' in other counties to enter negotiations by initiating a strike aiming to ensure an upper hand at the outset of a dialogue. Rather than an effective power play, they see in the strike a damaging signal inconsistent with the *rationale* of negotiation. They are further confused by strong obstructive, polemic, or negating positioning expressed by others early in the negotiation. They would definitely favour an indirect confrontation if forceful assertiveness would be required from their negotiation strategy (Brett, 2010). This cooperative inclination leads some negotiators to feel particularly affected if a negotiation fails after a conflictual start. Luomala *et al.* showed for instance that Finnish negotiators experience strong negative emotions, such as dejection and agitation, after an unsuccessful intercultural business negotiation. They are also eager to attempt to negotiate again a more favourable outcome as fast as possible (Luomala, Kumar, Singh *et al.*, 2015). Admittedly, an individual negotiator's 'Expectation of Future Negotiation Interaction' is therefore bound to be influenced by cultural preferences. Negotiators are also contrasting culturally when it comes to expressing such expectations and emotions. Whereas some negotiators will find normal to display emotions in their interactions with counterparts, others might feel either disturbed or think they are being played by a demonstrative subterfuge of their expressive emotional counterpart (Lewis, R.D., 2005). The studies of Adam *et al.* show moreover that the moves and concessions in a negotiation may well be facilitated by the display of anger and emotions in some countries, but not in others (Adam, Shikaro and Maddux, 2010).

Further differences can be perceived on the broader subject of sharing information and communication; *id est,* the second segment of interest in the 'wheel of culture' model.

Hofstede established for example that individuals have different cultural preferences for the sharing of information, where it should be operated, and by whom (Hofstede, 2001). This concerns notably disclosing to the counterparts the fall-back positions; interests; or time constrains of one's delegation. It includes also personal information on a negotiator's private environment or feelings. For some negotiators, exchanging information will feed trust; for others, trust is a prerequisite for sharing and reciprocating information. Socialisation occurrences, or first encounters, might for example deteriorate if a negotiator reacts angrily after being asked personal information such as the married status or number of children by a counterpart. Trompenaars and Hampden-Turner claim that for some negotiators, building trust will need considerably more than simply exchanging information (Trompenaars and Hampden-Turner, 2011). By the same token, some negotiators find natural to communicate extensively, and use small talk, with an emphasised language. Others, in contrast, resort to a more minimalistic communication; restrained expressivity; and shorter interventions (Lewis, R.D., 2005). The difference in communication preferences was once oddly formally recognised during a high-level meeting between the Permanent Representative and the State Secretary for European Affairs aimed at marking the preparation of a specific member state's Presidency of the Council. They both acknowledged that the success of their Presidency was almost dependent upon one unique factor; namely that the chairpersons and the other Presidency team members would have to "speak more, both in and around the meeting rooms". Another member state, very close geographically, and equally preparing its rotating Presidency, later came to determine that the essential effort and challenge required for 'its' chairpersons would be to use more words, enrich their communication, and gear up for more body movements - including closer physical contacts.

On the subject of physical aspects of communication, the research of Hall was the first to reveal cultural differences in the use and intensity of non-verbal or body language (Hall, 1959). The author further deepened the study of how people reared in different cultures live in different sensory or perceptual worlds (Hall *et al.*, 1968). This leads for example some of them to prefer imposing a physical distance and banning any physical contact when communicating with, or even only greeting, their interlocutors (Hall, 1966). A final difference in the preferences of communication of negotiators is the way they express not only their positions or bargaining stances, but also their personal opinions or feelings.

Depending on whether the delegates favour an indirect or rather direct confrontation of ideas and positions (Brett, 2007), they would normally communicate respectively diplomatically or less diplomatically. In some cases, the choice of a non-confrontational or diplomatic style of communication explains why a delegate would choose to use - or need - more words, and intervene longer, before focusing on the cleaving matter at hand.

The third segment of the model particularly relevant to capture differences within EU diplomatic governance relates to administrative and decision-making features. The degree of administrative and political centralisation used by Kassim to distinguish member states can definitely partly account for the margin of manoeuvre left to negotiators in the ‘Brussels’ negotiation processes (Kassim, 2003). Hofstede broadened this criterion to distinguish degrees of hierarchical weight and organisation; and what he calls “relation to power” (Hofstede, 2001). Some administrations and delegations are operating vertically; a strong line of command orders to abundant and hierarchically structured lower levels of decision-makers perceived as sheer implementers. Down the line, the delegate is left with an obligation to abide by the instructions; a duty to report; no real power of initiative when negotiating; and no direct access - or relation - to the political or superior hierarchical actors responsible for the initial instructions. The delegate operating within a more horizontal decision-making structure, and having for example a direct access to a minister’s phone line, is always incredulous at a counterpart needing more time to validate instructions or send ‘home’ even the smallest possible adaptation to the text under negotiation. The reason why this very counterpart would be reluctant to negotiate might result from another motive that is part of the fourth set of cultural preferences this section wishes to exploit; they relate to the roles and relationships in negotiations.

The studies of D’Amico and Rubinstein reveal differences of preferences as to who should ‘sit at the negotiation table’; and whether the power and status of the delegate representing the counterpart should be matched in the negotiation interactions. Hofstede *et al.* have equally noted how cultural preferences differ regarding the weight, credibility, and respect attributed to the status and seniority of individuals (Hofstede, Hofstede and Minkov, 2010). Several situations have been witnessed where delegates holding a high administrative rank or title would be unwilling to interact with either younger or lower graded representatives from other member states.

Even though these delegates might deliberately decide to arrive late in meetings or encounters if the hierarchical level of representation is not to their liking, others may have a more general tendency to arriving systematically late. For Rosinski, it is the result of their intention to devote whatever time is needed for the activity they have started, without feeling generally threatened by the clock and other incoming commitments (Rosinski, 2010). Other negotiators experience a higher sensitivity to time pressures, and might for instance feel uncomfortable at a meeting or negotiation dragging beyond the scheduled time (McDuff, 2006).

The fifth and final relevant criterion to distinguish negotiators culturally is their approach to policy-making; and the need for complementary rules to ensure enforcement of the agreed measures. Some delegates do not instinctively see the need of enacting a legislative measure or other policy instrument with a high level of details, stringent rules to enforce them, or elaborate provisions to implement them. They trust the recipients of the new 'law' are pragmatic enough to realise that the individual benefits they derive from public action depends on everyone abiding to and respecting it. In contrast, some member states have a tradition of a more extensive *corpus* of legislations, rules and regulations; they exist in general for the purpose of ensuring that individuals would not benefit from 'cheating the law' and 'egoistic' advantages to the detriment of others (Hofstede, Hofstede and Minkov, 2010). In this respect, it can be posited that the opposition of some delegations to an intervention of the EU may actually be a resistance of merely cultural nature to the type, scope, and proportionality of the proposed EU policy measure.

This analysis shows how individual preferences and collective cultural values are independent variables of EU diplomatic governance. They condition the essential parameters of deliberations and negotiations between the delegates; whether these are the imperative trust and respect, the interpersonal interactions, the formats of communication, or the decision-making methods. Any successful negotiation strategy needs to identify the possible divergences of cultural constitution, and envisage the efforts that will be required from the national representatives to adjust their individual behaviour and personal 'comfort zone' to others.

3.5 Overarching Normative Perspective

When combining both praxeological and normative optics, the propositions presented in this chapter essentially recommend that delegations invest in two different capitals; they are made respectively of tangible and intangible assets. Tangible resources involve notably the domestic logistics to determine and arbitrate the salience of national interests; the means to gather intelligence on the counterparts' alternatives and costs of alignment; the planning of concessions to control the reciprocation of the partners; unbridled coalition building and issue-linkage; and knowledge to tactically use the rules of procedure and timing. The intangible resources comprise *inter alia* the goodwill and confidence capitalised in prior negotiation sessions; cultural intelligence; the network capital of individual negotiators; and their relational influence over counterparts.

Conclusions

The effectiveness of the legislative manufacturing in the Council of the EU rests on an elaborate system of formal rules and informal norms of representation that administer the deliberation, negotiation and bargaining of legislative measures between its member states. The system provides sufficient efficacy for national delegations through processes of 'informality', reciprocal and circular transactions, and institutional leadership. All such processes are used to build consensus among member states by incentivising them to make compromises. Whilst the system aims to guarantee a sufficient level of satisfaction for the largest number of cooperating member states, it also endeavours to curtail the resistance of dissenting delegations by working out package solutions offering them larger benefits than their best unilateral alternative could provide. The dissertation has studied this 'interested consensus' building undertakings in light of diplomatic concepts and proceedings. It has applied policy science and situational normativism to investigate the variables at play in the negotiation strategies of Council members. Its purpose was to explain and predict the *modus operandi* of an internal diplomatic system contemplated as the result of these strategies. The dissertation has shown that the system qualifies as a diplomatic regime of cooperation driven by effective problem-solving governance. Using praxeology, and existing research on diplomacy and negotiation, the dissertation has derived normative propositions and prescriptions for the efficacy of national strategies in an interstate negotiation system that it proposes to conceptualise as the 'EU diplomatic governance'. The sustainability of this 'interested consensus' building system, or its utility, is contingent on its 'ophelimity' for every member state. This is the amount of satisfaction a negotiator receives from a given outcome; it can be assimilated to the notion of utility (Morgan, 1984: 413). 'Ophelimity' can be measured in a policy science equation representing the strategy of a member state. Its amount can be derived from the difference between the goal or objectives of the negotiation position of a delegation, and its fundamental need or interest to negotiate. The larger the difference, the more sizeable the 'ophelimity' - or satisfaction - and therefore efficacy of the strategy. The efficacy – or sufficient satisfaction - of the national negotiation strategy of a member state in EU diplomatic governance can be computed in the following illustrative equation:

$$g_i\,(x_1, x_2, x_3,\ldots, x_{11}) \geq b_i$$

Where ‘g’ stands for the goal of an undetermined member state (‘i’), or what can be expected as a negotiation objective considering the constrains and opportunities of a legislative decision-making proceeding in the Council; ‘x’ designates the variables representing the factors impacting the negotiation objectives ; and ‘b’ can be viewed to represent the ‘Best Alternative to a Negotiated Agreement’ coupled to the benefits, or costs, of a unilateral national solution outside the EU legislative framework. To calculate the satisfaction in a given negotiation, the least favourable terms of joint agreements or decisions would be measured against the consequences of having no agreement. The dissertation has identified eleven independent variables that influence and bear on the expectable outcome of the negotiation strategy of an EU member state in any legislative decision-making situation in the Council. They are compiled and presented in this final section, with the twofold normative optic of strategic effectiveness and bargaining satisfaction for national delegations.

1. ‘Salience’. The first variable conditioning the result of a national negotiation strategy is the importance of the issue under negotiation for the member state. The salience of the interests at stake for a delegation can be measured by the ‘issue power indicator’; it is composed of the engagement of the domestic (or home) decision-makers; the commitments desired from others; and the ability to control the negotiation process over a particular issue. It includes the diplomatic resources engaged in the tactics – including logrolling - deployed to influence the process and achieve the most desired outcome during the bargaining of the item. They should equally serve to appropriately secure the domestic ‘sacred’ interests and ‘political rationalities’ that increase the magnitude of the salience variable.

2. ‘Momentum’. Some member states may feel more acutely than others the need or urgency to negotiate. The greater this momentum or impetus to reach an agreement, the higher their engagement to negotiate. Momentum can be measured by the ‘Relative Strength Negotiation Index’ of a delegation; it essentially indicates the ‘negotiation orientation’ of a delegation, its need to negotiate, as well as the degree of its ‘political will’ and determination to seek bargaining satisfaction. It will depend in turn on the quality of the negotiation environment measured by the ‘Negotiation Contextual Conduciveness Index’.

3. ‘Time’. The less a delegation is pressured by time to either negotiate or come to an agreement, the higher its capacity to resist and transform this resource as a possible leverage to influence the outcome of other issues under negotiation.

4. ‘Leverage’. A delegation may gather bargaining strength in a negotiation if it is able to threaten a tit-for-tat; trade support or exchange votes on another issue; or link the outcome of one negotiation to the satisfaction to be earned in another. Conversely, the result will be adversely impacted if the delegation is subject to negative leverages forced upon it by other delegations or the Commission.

5. ‘Coalescence’. The bargaining power of a delegation is enhanced by the sharing, blending, and combination of its interests with other delegations and strategic coalitions. The degree of coalescence ranges from the lower level of like-minded delegations choosing simply to express jointly a position at the outset of a negotiation (as recommended by the Rules of Procedure of the Council), to the strategic coalition of delegations centred on the defence of shared interests supported by a final vote in common.

6. ‘Informality’. It is the degree of covertness that can benefit negotiation processes; the availability of informal channels to administer information, concessions, and package deals; the confidentiality for ‘diffuse reciprocity’; and the level of secrecy to manage the participation in coalitions.

7. ‘Leadership’ or engagement of the Presidency. The Presidency can be the perfect mediation solution in a ‘system design’ (Lewin and Shakun, 1976), and maximise the negotiation strategies of member states. For that matter, it should be committed to dedicate sufficient financial and human resources; prepare extensively; compile information on the national delegations’ interests; manage transactional compromises; operate the ‘lift’ to seek the removal of deadlocks; use the power of political rhetoric to “twist tongues and arms” (Krebs and Jackson, 2007); break-up opposing coalitions; and seek ‘Procedural Justice’ in its endeavours to build consensus.

8. ‘Institutionalisation’. It refers to the degree of cooperation between the Presidency and the Commission. It measures the efforts dedicated jointly by the Presidency and the Commission to anticipate, design, and craft compromise solutions. These common ventures should aim at securing ‘Distributive Justice’ and ‘diffuse reciprocity’ for all delegations. Both partners can also work closely together when the interests of the Commission as ‘guardian of the Treaty’ - and the Union's interests - collide with some national interests and run the risk of jeopardising the formal adoption by the Council.

9. ‘Cohesiveness’. The degree of Group integration and shared identity of the members of a Council Preparatory Body influences the intensity of their socialisation; their trust; and the informal norm of mutual assistance applying when one delegate needs to defend entrenched national positions. It is conditioned not only by the frequency of formal and private meetings of the Group; but equally by its membership, in particular whether it is attended more or exclusively by *attachés* or counsellors established in the Brussels based Permanent Representations. Besides, the higher the cohesiveness of a Group, the more bargaining relational dynamics between the Group members can be controlled, safeguarded, or usefully exploited by the Presidency. These dynamics are fuelled by essential personal facets of the individual negotiators such as their ‘negotiation orientation’; their ‘cooperative responsiveness’; their ‘face threat sensitivity’; and their ‘reciprocation wariness’.

10. ‘Autonomy’. The degree of freedom and the amplitude of the margin of manoeuvre granted to the national representatives impacts considerably the effectiveness of any strategy; in particular if the negotiation takes place in highly cohesive Preparatory Bodies. This variable can be measured by the degree of ‘double revision’ national representatives are allowed to use. It is their degree of autonomy to guide both the domestic and the ‘Brussels’ negotiation processes; authorising them to take distance with the terms of the initial mandate if so required to warrant a sufficient bargaining satisfaction.

11. ‘Acclimatisation’. The capacity of national representatives to read and adapt to individual cross-cultural differences is a *conditio sine qua non* for the success of any negotiation strategy. All delegates join the negotiation - and a Group - with their own values, convictions, and personal preferences.

They expect for example communication to take place in a certain format; a specific diplomatic language or political correctness; distinct patterns of mutual respect and trust from particular sources; or specific social and work practices. To strike an agreement with foreign counterparts requires not only to compromise on positions and interests of tangible nature; it commands equally to identify and sufficiently adjust to the intangible preferences of their individual representatives during the ‘negotiation dance’.

These conclusions submit that high values for each of these variables impact positively the magnitude of the bargaining satisfaction of national delegations by improving the member states’ possible negotiation expectations; they add to the efficacy of the negotiation strategies of national delegations; and they sustain the attractiveness of the ‘interested consensus’ building *modus operandi* inherent to EU diplomatic governance. This distinctive diplomatic decision-making system imposes on member states to design negotiation strategies made of pivotal conciliations and balancing acts. National delegations need to combine domestic gratification with empathy from the counterparts; maximum unilateral bargaining with a mutually satisfactory common denominator for all; and immediate profits with future payoff prospects.

On the subject of future prospects, yet unrelatedly, further research should test in the time to come the national negotiation strategy equation proposed in this dissertation. It could notably apply quantitative values drawn from the study of specific legislative negotiation occurrences. It could also later attempt to extend the equation beyond the purely legislative ambit; if and when other decision-making procedures - involving notably external relations - would become conditioned by the same politically integrated and interest based internal diplomatic proceedings. Delegates in these policy areas would arguably be intellectually challenged by some intriguing principles, facts, and norms of EU diplomatic governance. And notably that you can ultimately win if you decide to lose; that being isolated might actually help; that the Commission can be your ‘friend’ even when you distressingly dislike its Proposal; that you should not hope for a ‘win/win’ solution whereby you and all the other actors would reach their highest negotiation objective, but expect instead a ratio of ‘satisfied/satisfied’ - or even ‘not loose so much/not loose so much’; and that, counterintuitively, a high number of different positions and interests can make it easier to agree collectively.

EU diplomatic governance does not in fact simply rhetorically offer peace to resolve conflicts; it provides instead member states with the conditions, the efficacy, and the utility to accept and manage conflicts through negotiation.

Bibliography

Adam, H., Shikaro, A., and Maddux, W. W. (2010). Cultural Variance in the Interpersonal Effects of Anger in Negotiations. *Psychological Science, 21*(6), pp. 882-889.

Adler-Nissen, R. (2009). Behind the Scenes of Differentiated Integration: Circumventing National Opt-outs in Justice and Home Affairs. *Journal of European Public Policy, 16*(1), pp. 62-80.

Adler-Nissen, R. (2015). Towards a Practice Turn in EU Studies: The Everyday of European Integration. *JCMS: Journal of Common Market Studies, 54*(1), pp. 87-103.

Adler-Nissen, R. (2016). Diplomatic Agency. In C. M. Constantinou, P. Kerr and P. Sharp (Eds.), *The SAGE Handbook of Diplomacy* (pp. 92-103). Los Angeles: Sage.

Albin, C., and Druckman, D. (2014). Procedures Matter: Justice and Effectiveness in International Trade Negotiations. *European Journal of International Relations, 20*(4), pp. 1014-1042.

Ansell, C., Levi-Faur, D., and Trondal, J. (2016). An Organizational–Institutional Approach to Governance. In C. Ansell, J. Trondal and M. Øgård (Eds.), *Governance in Turbulent Times*. Oxford: Oxford University Press.

Aradau, C., and Huysmans, J. (2013). Critical Methods in International Relations: The Politics of Techniques, Devices and Acts. *European Journal of International Relations, 20*(3), pp. 596-619.

Arregui, J. (2016). Determinants of Bargaining Satisfaction Across Policy Domains in the European Union Council of Ministers. *Journal of Common Market Studies, 54*(5), pp. 1105-1122.

Arregui, J., and Thomson, R. (2014). Domestic Adjustment Costs, Interdependence and Dissent in the Council of the European Union. *European Journal of Political Research, 53*(4), pp. 692-708.

Atran, S., and Axelrod, R. (2008). Reframing Sacred Values. *Negotiation Journal, 24*(3), pp. 221-246.

Aus, J. P. (2008). The Mechanisms of Consensus: Coming to Agreement on Community Asylum Policy. In D. Naurin and H. Wallace (Eds.), *Unveiling the Council of the European Union: Games Governments Play in Brussels* (pp. 99-118). Basingstoke England; New York: Palgrave Macmillan.

Avenhaus, R., and Zartman, I. W. (2007). Introduction: Formal Models of, in, and for International Negotiations. In R. Avenhaus and I. W. Zartman (Eds.), *Diplomacy Games* (pp. 1-22). Springer.

Badie, B. (2012). *Diplomacy of Connivance*. New York: Palgrave Macmillan.

Bailer, S., Mattila, M., and Schneider, G. (2015). Money Makes the EU Go Round: The Objective Foundations of Conflict in the Council of Ministers. *JCMS: Journal of Common Market Studies, 53*(3), pp. 437-456.

Barry, B., Smithey Fulmer, I., and Goates, N. (2006). Bargaining with Feeling: Emotionality in and Around Negotiation. In L. Thompson (Ed.), *Negotiation Theory and Research*. New York: Psychology Press Taylor and Francis.

Bartolini, S. (2011). New Modes of European Governance: An Introduction. In A. Héritier and R. A. W. Rhodes (Eds.), *New Modes of Governance in Europe* (pp. 1-18). Palgrave Macmillan UK.

Bartos, O. J. (1995). Modeling Distributive and Inregrative Negotiations. *The Annals of the American Academy of Political and Social Science, 542*(November), pp. 48-60.

Bastasin, C. (2009). Partisan Protectionism: Political Consensus, the Euro and Europe's Response to the Global Crisis. In S. Micossi and G. L. Tosato (Eds.), *The European Union in the 21st Century*. Brussels: Centre for European Policy Studies.

Bazerman, M. H., and Neale, M. A. (1994). *Negotiating Rationally*. Simon and Schuster.

Bazerman, M. H., Tenbrunsel, A. E., and Wade-Benzoni, K. A. (2008). When “Sacred” Issues Are at Stake. *Negotiation Journal, 24*(1), pp. 113-117.

Bearce, D. H., Floros, K. M., and McKibben, H. E. (2009). The Shadow of the Future and International Bargaining: The Occurrence of Bargaining in a Three-Phase Cooperation Framework. *The Journal of Politics, 71*(2), pp. 719-732.

Bercovitch, J. (1984). Problems and Approaches in the Study of Bargaining and Negotiation. *Political Science, 36*, pp. 125-144.

Bernard, P. E. (2009). Bringing Soul to International Negotiation. *Negotiation Journal, 25*(2), pp. 147-159.

Berridge, G., R. (2015). *Diplomacy: Theory and Practice* (5th ed.). Basingstoke: Palgrave Macmillan.

Beyers, J. (1998). Where Does Supranationalism Come From? Ideas Floating Through the Working Groups of the Council of the European Union. *European Integration Online Papers, 2*(9), http://eiop.or.at/eiop/texte/1998-1009a.htm. Retrieved 09 September 2018.

Bjola, C. (2015). Using Momentum Analysis to Explain and Forecast the Outcome of International Negotiations. *International Negotiation, 20*(2), pp. 319-349.

Bjola, C., and Kornprobst, M. (2018). *Understanding International Diplomacy: Theory, Practice and Ethics* (2nd ed.). Abingdon and New York: Routledge.

Björkdahl, A. (2008). Norm Advocacy: a Small State Strategy to Influence the EU. *Journal of European Public Policy, 15*(1), pp. 135-154.

Bolewski, W. (2007). *Diplomacy and International Law in Globalized Relations*. Berlin and Heidelberg: Springer Verlag.

Börzel, T. (2005). Europeanization: How the EU Interacts with its Member States. In S. Bulmer and C. Lequesne (Eds.), *The Member States of the European Union*. Oxford: Oxford University Press.

Börzel, T. (2010). European Governance: Negotiation and Competition in the Shadow of Hierarchy. *JCMS: Journal of Common Market Studies, 48*(2), pp. 191-219.

Brett, J. (2010). Clueless About Culture and Indirect Confrontation of Conflict. *Negotiation and Conflict Management Research, 3*(3), pp. 169-178.

Brett, J., and Thompson, L. (2016). Negotiation. *Organizational Behavior and Human Decision Processes*, no. 136, pp. 68-79.

Brett, J. M. (2007). *Negotiating Globally: How to Negotiate Deals, Resolve Disputes, and Make Decisions Across Cultural Boundaries* (2nd ed.). San Francisco: Jossey-Bass.

Brett, J. M., Goldberg, S. B., and Ury, W. L. (1990). Designing Systems for Resolving Disputes in Organizations. *American Psychologist, 45*(2), pp. 162-170.

Brooks, B. W., and Rose, R. L. (2004). A Contextual Model of Negotiation Orientation. *Industrial Marketing Management, 33*, pp. 125-133.

Bulmer, S. (1994). The Governance of the European Union: A New Institutionalist Approach. *Journal of Public Policy, 13*(4), pp. 351-380.

Bulmer, S. (1996). The European Council and the Council of the European Union: Shapers of a European Confederation. *Publius, 26*(4), pp. 17-42.

Butt, A. N., Choi, J. N., and Jaeger, A. M. (2005). The Effects of Self-emotion, Counterpart Emotion, and Counterpart Behavior on Negotiator Behavior: a Comparison of Individual-level and Dyad-level Dynamics. *Journal of Organizational Behavior, 26*, pp. 681-704.

Butterfield, H., Wight, M., and Bull, H. (1966). *Diplomatic Investigations: Essays in the Theory of International Politics*. Allen & Unwin.

Cardinale, I., and Landesmann, M. (2016). Exploring Sectoral Conflicts of Interest in the Eurozone: A Structural Political Economy Approach. *The Vienna Institute for International Economic Studies*, Essays and Occasional Papers, no. 3.

Carnevale, P. J., and Issen, A. M. (1986). The Influence of Positive Affect and Visual Access on the Discovery of Integrative Solutions in Bilateral Negotiation. *Organizational Behavior and Human Decision Processes, 37*(1), pp. 1-13.

Carnevale, P. J., and Kim, Y. K. (2012). Negotiation. In V. S. Ramachandran (Ed.), *Encyclopedia of Human Behavior* (pp. 677-686). New York: Academic Press.

Caruso, E. M., Epley, N., and Bazerman, M. H. (2004). The Good, the Bad, and the Ugly of Perspective Taking in Groups. *Harvard NOM Working Paper*, *no. 5-036*.

Chamberlain, N. W., and Kuhn, J. W. (1965). *Collective Bargaining* (2nd ed.). New York: McGraw Hill.

Checkel, J. (1999). Social Construction and Integration. *Journal of European Public Policy, 6*(4), pp. 545-560.

Christiansen, T., Føllesdal, A., and Piattoni, S. (2003). Informal Governance in the European Union: an Introduction. In T. Christiansen and S. Piattoni (Eds.), *Informal Governance in the European Union*. Edward Elgar Publishing.

Citi, M., and Justesen, M. K. (2014). Measuring and Explaining Regulatory Reform in the EU: A Time-Series Analysis of Eight Sectors, 1984–2012. *European Journal of Political Research, 53*(4), pp. 709-726.

Clark, J., and Jones, A. (2011). 'Telling Stories about Politics': Europeanization and the EU's Council Working Groups. *JCMS: Journal of Common Market Studies, 49*(2), pp. 341-366.

Commission on Global Governance (1995). *Our Global Neighbourhood*. Oxford: Oxford University Press.

Constantinou, C. M., Kerr, P., and Sharp, P. (2016). Introduction: Understanding Diplomatic Practice. In C. M. Constantinou, P. Kerr and P. Sharp (Eds.), *The SAGE Handbook of Diplomacy*. Los Angeles: SAGE.

Council of the European Community (1980). *Report on European Institutions. Presented by the Committee of Three to the European Council, October 1979*.

Cross, J. (2011). Interventions and Negotiation in the Council of Ministers of the European Union. *European Union Politics, 13*(1), pp. 47–69.

Cross, J. (2012). Everyone's a Winner (Almost): Bargaining Success in the Council of Ministers of the European Union. *European Union Politics, 14*(1), pp. 70-94.

Cross, J. P., and Bølstad, J. (2015). Openness and Censorship in the European Union: An Interrupted Time Series Analysis. *European Union Politics, 16*(2), pp. 216-240.

Crump, L. (2015). Analyzing Complex Negotiations. *Negotiation Journal, 31*(2), pp. 131-153.

Crump, L. (2016). Toward a Theory of Negotiation Precedent. *Negotiation Journal, 32*(2), pp. 85-102.

Curhan, J. R., Elfenbein, H. A., and Xu, H. (2006). What Do People Value When They Negotiate? Mapping the Domain of Subjective Value in Negotiation. *Journal of Personality and Social Psychology, 91*(3), pp. 493-512.

Da Conceição-Heldt, E. (2008). Assessing the Impact of Issue Linkage in the Common Fisheries Policy. *International Negotiation, 13*(2), pp. 285-300.

De Dreu, C. K. W. (2003). Time Pressure and Closing of the Mind in Negotiation. *Organizational Behavior and Human Decision Processes, 91*, pp. 280-295.

Dehousse, R., Pasarín, A. F., and Plaza, J. (2014). How Consensual is Comitology? *Journal of European Public Policy, 21*(6), pp. 842-859.

Deutsch, M. (1961). The Face of Bargaining. *Operations Research, 9*, pp. 886-897.

Devin, G., and Durand, M.-F. (2018). Describing, Representing, Interpreting. In G. Devin (Ed.), *Resources and Applied Methods in International Relations* (pp. 3-18). Springer International Publishing.

Druckman, D. (1995). Situational Levers of Position Change: Further Explorations. *The Annals of the American Academy of Political and Social Science, 542*(November), pp. 61-80.

Druckman, D. (2009). Intuition or Counterintuition? The Science Behind the Art of Negotiation. *Negotiation Journal, 25*(4), pp. 431-448.

Druckman, D., and Harris, R. (1990). Alternative Models of Responsiveness in International Negotiation. *The Journal of Conflict Resolution, 34*(2), pp. 234-251.

Druckman, D., Olekalns, M., and Smith, P. L. (2009). Interpretive Filters: Social Cognition and the Impact of Turning Points in Negotiation. *Negotiation Journal, 25*(1), pp. 13-40.

Dupont, C., and Faure, G.-O. (2002). The Negotiation Process. In V. A. Kremenëiìuk (Ed.), *International Negotiation: Analysis, Approaches, Issues* (2nd ed.). San Francisco: Jossey-Bass.

Dür, A., and Mateo, G. (2004). Treaty-Making in the European Union: Bargaining, Issue Linkages, and Efficiency. *European Integration Online Papers, 8(18)*, http://eiop.or.at/eiop/pdf/2004-2018.pdf. Retrieved 09 September 2018.

Egeberg, M., Schaefer, G. F., and Trondal, J. (2006). EU Committee Governance Between Intergovernmental and Union Administration. In M. Egeberg (Ed.), *Multilevel Union Administration* (pp. 66-85). Basingstoke: Palgrave Macmillan.

Eichener, V. (1997). Effective European Problem- Solving: Lessons from the Regulation of Occupational Safety and Environmental Protection. *Journal of European Public Policy, 4*(4), pp. 591-608.

Elgström, O., and Jönsson, C. (2000). Negotiation in the European Union: Bargaining or Problem-Solving? *Journal of European Public Policy, 7*(5), pp. 684-704.

Elgström, O., and Jönsson, C. (Eds.). (2005). *European Union Negotiations: Processes, Networks and Institutions*. Abingdon and New York: Routledge.

Elms, D. (2006). How Bargaining Alters Outcomes: Bilateral Trade Negotiations and Bargaining Strategies. *International Negotiation, 11*, pp. 399-426.

Epstein, R. A. (2014). Overcoming 'Economic Backwardness' in the European Union. *Journal of Common Market Studies, 52*(1), pp. 17-34.

Eriksen, E. O. (2006). Reflexive Supranationalism in Europe - on the Cogs and Wheels of Integration. *Law and Democracy in the Post-National Union* (pp. 1-28). Oslo: ARENA.

Eriksen, E. O. (2014). *The Normativity of the European Union*. Basingstoke: Palgrave Macmillan.

European Commission (2001). *European Governance: A White Paper*, http://europa.eu/rapid/press-release_DOC-01-10_en.htm. Retrieved 09 September 2018.

Fearon, J. D. (1998). Bargaining, Enforcement, and International Cooperation. *International Organization, 52*(2), pp. 269-305.

Filzmoser, M., Hippmann, P., and Vetschera, R. (2016). Analyzing the Multiple Dimensions of Negotiation Processes. *Group Decision and Negotiation, 25*, pp. 1169-1188.

Filzmoser, M., and Vetschera, R. (2008). A Classification of Bargaining Steps and their Impact on Negotiation Outcomes. *Group Decision and Negotiation, 17*, pp. 421-443.

Fisher, R. (1989). Negotiating Inside Out: What are the Best Ways to Relate Internal Negotiations with External Ones? *Negotiation Journal, 5*(1), pp. 33-41.

Fisher, R., Ury, W., and Patton, B. (1997). *Getting to Yes: Negotiating an Agreement Without Giving In* (2nd ed.). London: Arrow Business Books.

Fleck, D., Volkema, R. J., and Pereira, S. (2016). Dancing on the Slippery Slope: The Effects of Appropriate Versus Inappropriate Competitive Tactics on Negotiation Process and Outcome. *Group Decision and Negotiation, 25*, pp. 873-899.

Fouilleux, E., de Maillard, J., and Smith, A. (2004). Les groupes de travail du Conseil, nerf de la production des politiques européennes. In C. Lequesne and Y. Surel (Eds.), *L'intégration européenne : entre émergence institutionnelle et recomposition de l'état*. Paris: Presses de la Fondation Nationale des Sciences Politiques.

Fouilleux, E., de Maillard, J., and Smith, A. (2005). Technical or Political? The Working Groups of the EU Council of Ministers. *Journal of European Public Policy, 12*(4), pp. 609-623.

Franke, U., and Weber, R. (2011). At the Papini Hotel: On Pragmatism in the Study of International Relations. *European Journal of International Relations, 18*(4), pp. 669-691.

Friedman, R. A., and Shapiro, D. L. (1995). Deception and Mutual Gains Bargaining: Are They Mutually Exclusive? *Negotiation Journal, 11*(3), pp. 243-253.

Gärtner, L., Hörner, J., and Obholzer, L. (2011). National Coordination of EU Policy: A Comparative Study of the Twelve "New" Member States. *Journal of Contemporary European Research, 7*(1), pp. 77-100.

Gasparski, W. W. (2017). Praxiology, or the Study of the Prose of Human Action Revisited. In P. Makowski, M. Bonecki and K. Nowak-Posadzy (Eds.), *Praxiology and the Reasons for Action* (pp. 21-42). Routledge.

Gelfand, M., and Brett, J. (2004). *The Handbook of Negotiation and Culture*. Stanford: Stanford University Press.

Gelfand, M., and Dyer, N. (2000). A Cultural Perspective on Negotiation: Progress, Pitfalls, and Prospects. *Applied Psychology, 49*(1), pp. 62-99.

George, J., Jones, G. R., and Gonzalez, J. A. (1998). The Role of Affect in Cross-Cultural Negotiations. *Journal of International Business Studies, 29*(4), pp. 749-772.

Giest, S., Howlett, M., and Mukherjee, I. (2015). The Relevance of the Academic Study of Public Policy. In G. Stoker, B. G. Peters and J. Pierre (Eds.), *The Relevance of Political Science* (pp. 121-135). London and New York: Palgrave Macmillan.

Gino, F., and Moore, D. A. (2008). Why Negotiators Should Reveal Their Deadlines: Disclosing Weaknesses Can Make You Stronger. *Negotiation and Conflict Management Research, 1*(1), pp. 77-96.

Golub, J. (2012a). Cheap Dates and the Delusion of Gratification: Are Votes Sold or Traded in the EU Council of Ministers? *Journal of European Public Policy, 19*(2), pp. 141-160.

Golub, J. (2012b). How the European Union Does Not Work: National Bargaining Success in the Council of Ministers. *Journal of European Public Policy, 19*(9), pp. 1294-1315.

Goodin, R. E., and Brennan, G. (2001). Bargaining over Beliefs. *Ethics, 111*(2), pp. 256-277.

Gray, B. (2011). The Complexity of Multiparty Negotiations: Wading into the Muck. *Negotiation and Conflict Management Research, 4*(3), pp. 169-177.

Guggenbühl, A. (2004). Cookbook of the Presidency of the European Union. In P. Meerts and F. Cede (Eds.), *Negotiating European Union*. Basingstoke: Palgrave Macmillan.

Haas, E. B. (1980). Why Collaborate? Issue-Linkage and International Regimes. *World Politics, 32*(3), pp. 357-405.

Haas, P. M. (1992). Introduction: Epistemic Communities and International Policy Coordination. *International Organization, 46*(1), pp. 1-35.

Habermas, J. (1981). *Theorie des Kommunikativen Handelns: Handlungsrationalität und Gesellschaftliche Rationalisierung*. Frankfurt/Main: Suhrkamp Verlag.

Häge, F. M. (2007). Committee Decision-making in the Council of the European Union. *European Union Politics, 8*(3), pp. 299-328.

Häge, F. M. (2012). *Bureaucrats as Law-makers: Committee Decision-making in the EU Council of Ministers*. Abingdon: Routledge.

Häge, F. M., and Naurin, D. (2013). The effect of Codecision on Council Decision-Making: Informalization, Politicization and Power. *Journal of European Public Policy, 20*(7), pp. 953-971.

Hagemann, S., and Franchino, F. (2016). Transparency vs Efficiency? A Study of Negotiations in the Council of the European Union. *European Union Politics, 17*(3), pp. 408-428.

Hagemann, S., Hobolt, S. B., and Wratil, C. (2016). Government Responsiveness in the European Union: Evidence From Council Voting. *Comparative Political Studies, 50*(6), pp. 850-876.

Hall, E. T. (1959). *The Silent Language* (Vol. 3). Garden City, NY: Doubleday.

Hall, E. T. (1966). *The Hidden Dimension*. Garden City, NY: Doubleday.

Hall, E. T., Birdwhistell, R. L., Bock, B., Bohannan, P., Diebold Jr, A. R., Durbin, M., *et al.* (1968). Proxemics (and comments and replies). *Current Anthropology, 9*(2/3), pp. 83-108.

Halpert, J. A., Stuhlmacher, A. F., Crenshaw, J. L., Litcher, C. D., and Bortel, R. (2010). Paths to Negotiation Success. *Negotiation and Conflict Management Research, 3*(2), pp. 91-116.

Hamilton, K., and Langhorne, R. (1995). *The Practice of Diplomacy: Its Evolution, Theory, and Administration*. London; New York: Routledge.

Hardin, R. (1982). *Collective Action*. Washington: Resources for the Future.

Hayes-Renshaw, F., and Wallace, H. (2006a). *The Council of Ministers* (2nd ed.). Basingstoke: Palgrave Macmillan.

Hayes-Renshaw, F., and Wallace, H. (2006b). When and Why the EU Council of Ministers Votes Explicitly. *Journal of Common Market Studies, 44*(1), pp. 161-194.

Heisenberg, D. (2005). The Institution of 'Consensus' in the European Union: Formal Versus Informal Decision-Making in the Council. *European Journal of Political Research, 44*, pp. 65-90.

Héritier, A. (2002). New Modes of Governance in Europe: Policy Making Without Legislating? In A. Héritier (Ed.), *Common Goods: Reinventing European and International Governance* (pp. 185–206.). Boston and Lanham: Rowman & Littlefield.

Héritier, A. (2003). New Modes of Governance in Europe: Increasing Political Capacity and Policy Effectiveness? In T. A. Börzel and R. A. Cichowski (Eds.), *The State of the European Union* (pp. 105-127). Oxford: Oxford University Press.

Hildesheimer, F. (1995). *Testament Politique de Richelieu* (Vol. 511). Librairie Droz.

Hofstede, G. (2001). *Culture's Consequences: Comparing Values, Behaviors, Institutions, and Organizations Across Nations* (2nd ed.). Thousand Oaks, Calif.: Sage Publications.

Hofstede, G., Hofstede, G. J., and Minkov, M. (2010). *Cultures and Organizations: Intercultural Cooperation and its Importance for Survival (The Software of the Mind)*. New York: McGraw Hill.

Holmes, M. (2016). The Social Neuroscience of Secrets in Secret Diplomacy. Theorising Secrecy Diplomacy. In C. Bjola and S. Murray (Eds.), *Secret Diplomacy: Concepts, Contexts and Cases* (pp. 46-63). London and New York: Routledge.

Holsti, K. J. (1982). Bargaining Theory and Diplomatic Reality: the CSCE Negotiations. *Review of International Studies, 8*(3), pp. 159-170.

Hopf, T. (2010). The Logic of Habit in international Relations. *European Journal of International Relations, 16*(4), pp. 539-561.

Hopmann, P. T. (1996). *The Negotiation Process and the Resolution of International Conflicts*. University of South Carolina Press.

Hopmann, P. T. (2010). Synthesizing Rationalist and Constructivist Perspectives on Negotiated Cooperation. In I. W. Zartman and S. Touval (Eds.), *International Cooperation: the Extents and Limits of Multilateralism* (pp. 95-110). Cambridge: Cambridge University Press.

Hosli, M. O., Mattila, M., and Uriot, M. (2009). *Voting Behaviour in the Council of the European Union after the 2004 Enlargement*. Paper presented at the conference 'Enlargement - Five years after: The state of European integration and new challenges for the discipline', Central European University, May 8-9, Budapest.

Høyland, B., and Wøien Hansen, V. (2014). Issue-Specific Policy-Positions and Voting in the Council. *European Union Politics, 15*(1), pp. 59-81.

Iklé, F. C. (1964). *How Nations Negotiate*. New York: Harper & Row.

Iklé, F. C., and Leites, N. (1962). Political Negotiation as a Process of Modifying Utilities. *The Journal of Conflict Resolution, 6*, pp. 19-28.

Jacobs, T. (2016). *The Language Diplomats Speak: A Discourse-Theoretical Approach to the Negotiations in the EURONEST Parliamentary Assembly*. EU Diplomacy Papers 5/2016. Bruges: College of Europe.

Jensen, T. (2010). *Time and the Consensus Norm: Examining the Dynamics of Voting in the Council*. Paper presented at the ECPR Fifth Pan-European Conference on EU Politics, 24-26 June, Porto, Portugal.

Jones, A., and Clark, J. (2002). D'Accord or Discord? New Institutionalism, Concordance, and the European Union Agriculture Council. *Environment and Planning C: Government and Policy, 20*(1), pp. 113-129.

Jönsson, C. (2002). Diplomacy, Bargaining and Negotiation. In W. Carlsneaes, T. Risse-Kappen and B. A. Simmons (Eds.), *Handbook of International Relations* (pp. 212-234). London: Sage Publications.

Jönsson, C. (2016). Diplomacy, Communication and Signalling. In C. M. Constantinou, P. Kerr and P. Sharp (Eds.), *The SAGE Handbook of Diplomacy* (pp. 79-103). Los Angeles: SAGE.

Jönsson, C., and Hall, M. (2005). *Essence of Diplomacy*. Springer.

Jönsson, C., and Strömvik, M. (2005). Negotiating in Networks. In O. Elgström and C. Jönsson (Eds.), *European Union Negotiations: Processes, Networks and Institutions*. Abingdon and New York: Routledge.

Kaeding, M., and Selck, T. (2005). Mapping Out Political Europe: Coalition Patterns in EU Decision-Making. *International Political Science Review, 26*(3), pp. 271–290

Kahneman, D. (1991). Reference Points, Anchors, Norms and Mixed Feelings. *Organizational Behavior and Human Decision Processes, 51*, pp. 296-312.

Kapstein, E. B. (2008). Fairness Considerations in World politics: Lessons from International Trade Negotiations. *Political Science Quarterly, 123*(2), pp. 229-245.

Kassim, H. (2003). Meeting the Demands of EU Membership: The Europeanization of National Administrative Systems. In K. Featherstone and C. M. Radaelli (Eds.), *The Politics of Europeanization* (pp. 83-111). Oxford: Oxford University Press.

Kassim, H., and Peters, B. G. (2001). Conclusion: Co-ordinating National Action in Brussels - A Comparative Perspective. In H. Kassim, A. Menon, B. G. Peters and V. Wright (Eds.), *The National Co-ordination of EU Policy: the European Level*. Oxford: Oxford University Press.

Kecskemeti, P. (1958). *Strategic Surrender*. Stanford University Press.

Kemper, R. E., and Kemper, D. R. (1994). *Negotiation Literature: A Bibliographic Essay, Citations, and Sources*. Scarecrow Press.

Killermann, K. (2016). Loose Ties or Strong Bonds? The Effect of a Commissioner's Nationality and Partisanship on Voting in the Council. *Journal of Common Market Studies, 54*(6), pp. 1367-1383.

Kleine, M. (2013). *Informal Governance in the European Union: How Governments Make International Organizations Work*. Ithaca, NY: Cornell University Press.

Knill, C., and Duncan, L. (2007). *Environmental Politics in the European Union: Policy-Making, Implementation and Patterns of Multi-level Governance*. Manchester: Manchester University Press.

Knopf, J. W. (1993). Beyond Two-level Games: Domestic–International Interaction in the Intermediate-Range Nuclear Forces Negotiations. *International Organization, 47*(4), pp. 599-628.

Kohler-Koch, B., and Eising, R. (1999). *The Transformation of Governance in the European Union*. London: Routledge.

Krebs, R. R., and Jackson, P. T. (2007). Twisting Tongues and Twisting Arms: The Power of Political Rhetoric. *13*(1), pp. 35-66.

Kurizaki, S. (2007). Efficient Secrecy: Public versus Private Threats in Crisis Diplomacy. *American Political Science Review, 101*(3), pp. 543-558.

Laatsit, M., and Kaeding, M. (2009). *It's the Centre- Periphery Stupid! Cooperation Patterns in the Council of Ministers After Enlargement*. Paper presented at the conference 'Enlargement - Five years after: The state of European integration and new challenges for the discipline', Central European University, May 8-9, Budapest.

Larsson, T. (2003). Precooking in the European Union: The World of Experts. Stockholm: Fritzes.

Laruelle, A., Martinez, R., and Valenciano, F. (2006). Success Versus Decisiveness. *Journal of Theoretical Politics, 18*(2), pp. 185-205.

Lasswell, H. (1936). *Politics: Who Gets What, When, How*. New York: Meridian.

Lasswell, H. (1951). The Policy Orientation. In D. Lerner and H. D. Lasswell (Eds.), *The Policy Sciences. Recent Developments in Scope and Method* (pp. 3-15). Stanford: Stanford University Press.

Lasswell, H. (1970). The Emerging Conception of the Policy Sciences. *Political Sciences, 1*(1), pp. 3-14.

Latour, B. (2013). *An Inquiry into Modes of Existence*. Cambridge: Harvard University Press.

Lax, D. A., and Sebenius, J. K. (1986). *The Manager as Negotiator: Bargaining for Cooperation and Competitive Gain*. New York; London: Free Press; Collier Macmillan.

Lax, D. A., and Sebenius, J. K. (1992). The Manager as Negotiator: The Negotiator's Dilemma: Creating and Claiming Value. In S. B. Goldberg, F. E. A. Sander and N. H. Rogers (Eds.), *Dispute Resolution: Negotiation, Mediation, and Other Processes*. Boston: Little, Brown and Co.

Leira, H. (2016). A Conceptual History of Diplomacy. In C. M. Constantinou, P. Kerr and P. Sharp (Eds.), *The SAGE Handbook of Diplomacy* (pp. 28-38). Los Angeles: SAGE.

Lempp, J., and Altenschmidt, J. (2008). The Prevention of Deadlock Through Informal Processes of 'Supranationalization': The Case of Coreper. *European Integration, 30*(4), pp. 511-526.

Lewicki, R. J., Barry, B., and Saunders, D. M. (2015). *Essentials of Negotiation* (6th ed.). Boston, Mass.: McGraw-Hill/Irwin.

Lewicki, R. J., and Hiam, A. (1998). *The Fast Forward MBA in Negotiating and Deal Making*. New York; Chichester: Wiley.

Lewicki, R. J., McAllister, D. J., and Bies, R. J. (1998). Trust and Distrust: New Relationships and Realities. *The Academy of Management Review, 23*(3), pp. 438-458.

Lewicki, R. J., and Wiethoff, C. (2000). Trust, Trust Development, and Trust Repair. In M. Deutsch, P. T. Coleman and E. C. Marcus (Eds.), *The Handbook of Conflict Resolution: Theory and Practice* (pp. 86-107). San Francisco: Jossey-Bass.

Lewin, A. Y., and Shakun, M. F. (1976). Situational Normativism: A Descriptive-Normative Approach to Decision Making and Policy Sciences. *Policy Sciences, 7*(1), pp. 1-10.

Lewis, J. (2005). The Janus Face of Brussels: Socialization and Decision Making in the European Union. *International Organization, 59*(4), pp. 937-971.

Lewis, J. (2009). *The Impact of Institutional Environments on Negotiation Styles in EU Decision Making*. Paper presented at the conference 'Enlargement – Five Years After: The State of European Integration and New Challenges for the Discipline', Central European University, May 8-9, Budapest.

Lewis, J. (2010). How Institutional Environments Facilitate Co-operative Negotiation Styles in EU Decision-Making. *Journal of European Public Policy, 17*(5), pp. 648-664.

Lewis, J. (2014). COREPER: Linking Capitals and Brussels. In S. Vanhoonacker and T. Blom (Eds.), *The Politics of Information: The Case of the European Union*. Basingstoke and New York: Palgrave Macmillan.

Lewis, R. D. (2005). *When Cultures Collide: Leading Across Cultures* (3rd ed.). Boston; London: Nicholas Brealey International.

Liu, L. A., Friedman, R., Barry, B., Gelfand, M. J., and Zhang, Z.-X. (2012). The Dynamics of Consensus Building in Intracultural and Intercultural Negotiations. *Administrative Science Quaterly, 57*(2), pp. 269-304.

Luomala, H. T., Kumar, R., Singh, J. D., and Jaakkola, M. (2015). When an Intercultural Business Negotiation Fails: Comparing the Emotions and Behavioural Tendencies of Individualistic and Collectivistic Negotiators. *Group Decision and Negotiation, 24*(3), pp. 537-561.

Malhotra, D. (2004). Trust and Reciprocity Decisions: The Differing Perspectives of Trustors and Trusted Parties. *Organizational Behavior and Human Decision Processes, 94*(2), pp. 61-73.

Martin, L. (1994). Heterogeneity, Linkages and Commons Problems. *Journal of Theoretical Studies, 6*(4), pp. 473-493.

Mattila, M. (2009). Roll Call Analysis of Voting in the European Union Council of Ministers After the 2004 Enlargement. *European Journal of Political Research, 48*(6), pp. 840-857.

Mattila, M., and Lane, J.-E. (2001). Why Unamity in the Council? *European Union Politics, 2*(1), pp. 31-52.

McConnell, F., and Dittmar, J. (2016). Diplomatic Culture. In C. M. Constantinou, P. Kerr and P. Sharp (Eds.), *The SAGE Handbook of Diplomacy*. Los Angeles: SAGE.

McDonagh, B. (2015). Inside the Mind of a Permanent Representative in Brussels: Personal Reflections. *European University Institute Working Papers,* RSCA 2015/50.

McDuff, I. (2006). Your Pace or Mine? Culture, Time, and Negotiation. *Negotiation Journal, 22*(1), pp. 31-45.

McKibben, H. E. (2010). Issue Characteristics, Issue Linkage and States' Choice of Bargaining Strategies in the European Union. *Journal of European Public Policy, 17*(5), pp. 694-707.

McKibben, H. E. (2013). The Effects of Structures and Power on State Bargaining Strategies. *American Journal of Political Science, 57*(2), pp. 411-427.

Meerts, P. (2011). Boundaries in Bargaining: A Multidimensional View. *Group Decision and Negotiation, 20*, pp. 155-164.

Miklin, E. (2009). Government Positions on the EU Services Directive in the Council: National Interests or Individual Ideological Preferences? *West European Politics, 32*(5), pp. 943-962.

Mises, L. v. (1966). *Human Action: A Treatise on Economics* (3rd ed.). Chicago: Henry Regnery.

Monheim, K. (2016). The 'Power of Process:' How Negotiation Management Influences Multilateral Cooperation. *International Negotiation, 21*(3), pp. 345-380.

Moore, C. W., and Woodrow, P. J. (2010). *Handbook of Global and Multicultural Negotiation*. San Francisco: Jossey-Bass.

Moore, D. A. (2004). The Unexpected Benefits of Final Deadlines in Negotiation. *Journal of Experimental Social Psychology, 40*, pp. 121-127.

Morgan, T. C. (1984). A Spatial Model of Crisis Bargaining. *International Studies Quaterly, 28*(4), pp. 407-426.

Morris, M. W., and Fu, H.-Y. (2001). How Does Culture Influence Conflict Resolution? A Dynamic Constructivist Analysis. *Social Cognition, 19*(3), pp. 324-349.

Murray, S. (2016). Secret "versus" Open Diplomacy Across the Ages. In C. Bjola and S. Murray (Eds.), *Secret Diplomacy. Concepts, Contexts and Cases* (pp. 29-45). London and New York: Routledge.

Murray, S., Sharp, P., Wiseman, G., Criekemans, D., and Melissen, J. (2011). The Present and Future of Diplomacy and Diplomatic Studies. *International Studies Review, 13*(4), pp. 709-728.

Naurin, D. (2007a). Network Capital and Cooperation Patterns in the Working Groups of the Council of the EU. *European University Institute Working Papers,* RSCAS 2007/14.

Naurin, D. (2007b). Why Give Reason? Measuring Arguing and Bargaining in Survey Research. *Swiss Political Science Review, 13*(4), pp. 559-575.

Naurin, D., and Lindahl, R. (2008). East-North-South: Coalition-Building in the Council Before and After Enlargement. In D. Naurin and H. Wallace (Eds.), *Unveiling the Council of the European Union: Games Governments Play in Brussels* (pp. 64-78). Basingstoke England; New York: Palgrave Macmillan.

Naurin, D., and Lindahl, R. (2010). Out in the Cold? Flexible Integration and the Political Status of Euro Opt-outs. *European Union Politics, 11*(4), pp. 485-509.

Naurin, D., and Wallace, H. (Eds.). (2008). *Unveiling the Council of the European Union: Games Governments Play in Brussels*. Basingstoke England; New York: Palgrave Macmillan.

Odell, J. S. (2009). Breaking Deadlocks in International Institutional Negotiations: The WTO, Seattle, and Doha. *International Studies Quarterly, 53*(2), pp. 273-299.

Odell, J. S. (2010). Three Islands of Knowledge About Negotiation in International Organizations. *Journal of European Public Policy, 17*(5), pp. 610-632.

Ohlson, T. (2008). Understanding Causes of War and Peace. *European Journal of International Relations, 14*(1), pp. 133-160.

Olekalns, M., Brett, J. M., and Weingart, L. R. (2003). Phases, Transitions and Interruptions: Modeling Processes in Multi-party Negotiations. *International Journal of Conflict Management, 14*(3/4), pp. 191-211.

Olsen, I. (2010). *The Council Working Groups - Advisors or De Facto Decision Makers?* Paper presented at the ECPR Fifth Pan-European Conference on EU Politics, 24-26 June, Porto, Portugal.

Özyurt, S. (2014). Audience Costs and Reputation in Crisis Bargaining. *Games and Economic Behavior, 88*(November), pp. 250-259.

Pammen, J. (2016). Gripengate. When the Worlds of Secret and Public Diplomacy Collide. In C. Bjola and S. Murray (Eds.), *Secret Diplomacy: Concepts, Contexts and Cases* (pp. 153-166). London and New York: Routledge.

Panke, D. (2012). Negotiation Effectiveness: Why Some States are Better Than Others in Making Their Voices Count in EU Negotiations. *Comparative European Politics, 10*(1), pp. 111-132.

Panke, D. (2015). Lock-in Strategies in International Negotiations: The Deconstruction of Bargaining Power. *Millennium, 43*(2), pp. 375-391.

Parks, C. D., and Komorita, S. S. (1998). Reciprocity Research and its Implications for the Negotiation Process. *International Negotiation*, *3*(2), pp. 151-169.

Parsons, C. (2002). Showing Ideas as Causes: The Origins of the European Union. *International Organization, 56*(1), pp. 47-84.

Patton, C., and Balakrishnan, P. V. S. (2010). The Impact of Expectation of Future Negotiation Interaction on Bargaining Processes and Outcomes. *Journal of Business Research, 63*, pp. 809-816.

Perry, M., and Samuelson, L. (1994). Open- Versus Closed-Door Negotiations. *The RAND Journal of Economics, 25*(2), pp. 348-359.

Pinfari, M. (2011). Time to Agree: Is Time Pressure Good for Peace Negotiations? *The Journal of Conflict Resolution, 55*(5), pp. 683-709.

Poast, P. (2012). Does Issue Linkage Work? Evidence from European Alliance Negotiations, 1860 to 1945. *International Organization, 66*(2), pp. 277-310.

Polzer, J. T., Mannix, E. A., and Neale, M. A. (1998). Interest Alignment and Coalitions in Multiparty Negotiation. *The Academy of Management Journal, 41*(1), pp. 42-54.

Ponzano, P. (2002). Le processus de décision dans l'Union européenne. *Quaderni del Circolo Rosselli, 77*(2), pp. 83-100.

Ponzano, P., Hermanin, C., and Corona, D. (2012). *Le pouvoir d'initiative de la Commission européenne : une érosion progressive?* Etudes et Recherches, no. 89. Paris : Notre Europe.

Pouliot, V., and Cornut, J. (2015). Practice Theory and the Study of Diplomacy: A Research Agenda. *Cooperation and Conflict, 50*(3), pp. 297-315.

Pruitt, D. G. (1981). *Negotiation Behavior*. New York: Academic Press.

Puetter, U. (2012). Europe's Deliberative Intergovernmentalism: the Role of the Council and European Council in EU Economic Governance. *Journal of European Public Policy, 19*(2), pp. 161-178.

Putnam, R. D. (1988). Diplomacy and Domestic Politics: the Logic of Two-level Games. *International Organization, 42*(3), pp. 427-460.

Putnam, R. D. (1993). Diplomacy and Domestic Politics: the Logic of Two-level Games. In P. B. Evans, H. K. Jacobson and R. D. Putnam (Eds.), *Double-edged Diplomacy: International Bargaining and Domestic Politics*. Berkeley: University of California Press.

Raiffa, H. (1982). *The Art and Science of Negotiation*. Belknap Press of Harvard University Press.

Reh, C. (2009). *The Politics of Pre-negotiation: Explaining the Effective Preparation of Complex International Conferences*. Paper presented at the ISA Annual Convention, 15-18 February, New York.

Ripsman, N. M. (2004). The Politics of Deception Forging Peace Treaties in the Face of Domestic Opposition. *International Journal, 60*(1), pp. 189-216.

Roering, K., Slusher, E. A., and Schooler, R. D. (1975). Commitment to Future Interaction in Marketing Transactions. *Journal of Applied Psychology, 60*(June), pp. 386-388.

Rosenau, J. N. (1966). Pre-Theories and Theories of Foreign Policy, in Farrell, R.B. (Ed.), *Approaches to Comparative and International Politics* (pp. 167-208). Evanston: Northwestern University Press.

Rosenau, J. N. (2009). Governance in the Twenty-First Century. *Palgrave Advances in Global Governance* (pp. 7-40). London: Palgrave Macmillan.

Rosinski, P. (2010). *Coaching Across Cultures: New Tools for Leveraging National, Corporate and Professional Differences*. London: Nicolas Brealey Publishing.

Rotberg, R. I. (2014). Good Governance Means Performance and Results. *Governance, 27*(3), pp. 511-518.

Rotberg, R. I. (2018). Good Governance: Measuring the Performance of Governments. In D. V. Malito, G. Umbach and N. Bhuta (Eds.), *The Palgrave Handbook of Indicators in Global Governance* (pp. 33-48). London: Palgrave Macmillan.

Salmon, J. (1971). Les représentations et missions permanentes auprès de la CEE et de l'EURATOM. In J. Salmon, M. Virally, P. Gerbet and V.-Y. Ghebali (Eds.), *Les missions permanentes auprès des organisations internationales* (pp. 561-830). Bruxelles: Bruylant.

Sannerstedt, A. (2005). Negotiations in EU Committees. In O. Elgström and C. Jönsson (Eds.), *European Union Negotiations: Processes, Networks and Institutions*. Abingdon and New York: Routledge.

Sarigil, Z. (2010). Bargaining in Institutionalized Settings: The Case of Turkish Reforms. *European Journal of International Relations, 16*(3), pp. 463-483.

Schelling, T. (1960). *The Strategy of Conflict*. Cambridge: Harvard University Press.

Schout, A., and Vanhoonacker, S. (2006). Evaluating Presidencies of the Council of the EU: Revisiting Nice. *JCMS: Journal of Common Market Studies, 44*(5), pp. 1051-1077.

Schneider, C. J. (2011). Weak States and Institutionalized Bargaining Power in International Organizations. *International Studies Quaterly, 55*(2), pp. 331-355.

Schneider, G. (2005). Capacity and Concessions: Bargaining Power in Multilateral Negotiations. Millennium, *33*(3), pp. 665-689.

Schoppa, L. J. (1993). Two-Level Games and Bargaining Outcomes: Why Gaiatsu Succeeds in Japan in Some Cases but not Others. *International Organization, 47*(3), pp. 353-386.

Sebenius, J. K. (1983). Negotiation Arithmetic: Adding and Substracting Issues and Parties. *International Organization, 37*(2), pp. 281-316.

Sebenius, J. K. (1992). Negotiation Analysis: A Characterization and Review. *Management Science, 38*(1), pp. 18-38.

Sebenius, J. K. (2009). Negotiation Analysis: From Games to Inferences to Decisions to Deals. *Negotiation Journal, 25*(4), pp. 449-465.

Sechser, T. S. (2017). A Bargaining Theory of Coercion. In K. M. Greenhill and P. Krause (Eds.), *The Power to Hurt: Coercion in Theory and Practice*. Oxford: Oxford University Press.

Sending, O. J., Pouliot, V., and Neuman, I. B. (2015). *Diplomacy and the Making of World Politics*. New York and Cambridge: Cambridge University Press.

Sending, O. J., Pouliot, V., and Neumann, I. B. (2011). The Future of Diplomacy: Changing Practices, Evolving Relationships. *International Journal, 66*(3), pp. 527-542.

Shakun, M. F. (1975). Policy Making under Discontinuous Change: The Situational Normativism Approach. *Management Science, 22*(2), pp. 226-235.

Shapiro, D. (2017). *Negotiating the Nonnegotiable: How to Resolve Your Most Emotionally Charged Conflicts*. United States: Penguin Books.

Shapiro, D. L., and Bies, R. J. (1994). Threats, Bluffs, and Disclaimers in Negotiations. *Organizational Behavior and Human Decision Processes, 60*(1), pp. 14-35.

Sharp, P. (1999). For Diplomacy: Representation and the Study of International Relations. *International Studies Review, 1*(1), pp. 33-58.

Sharp, P. (2016). Making Sense of Secret Diplomacy from the Late Moderns to the Present. In C. Bjola and S. Murray (Eds.), *Secret Diplomacy: Concepts, Contexts and Cases* (pp. 30-45). London and New York: Routledge.

Smeets, S. (2015). Unanimity and Exposure in the EU Council of Ministers – or How the Dutch Won and Lost the ICTY debate. *European Journal of Political Research, 54*(2), pp. 228-304.

Smeets, S. (2016). Consensus and Isolation in the EU Council of Ministers. *Journal of European Integration, 38*(1), pp. 23-39.

Stoker, G., Peters, B. G., and Pierre, J. (Eds.). (2015). *The Relevance of Political Science*. London and New York: Palgrave Macmillan.

Tallberg, J., and Johansson, K. M. (2008). Party Politics in the European Council. *Journal of European Public Policy, 15*(8), pp. 1222-1242.

Taylor, P. J. (2002). A Cylindrical Model of Communication Behavior in Crisis Negotiations. *Human Communication Research,, 28*(1), pp. 7-48.

Tenbrunsel, A. E., Wade-Benzoni, K. A., Tost, L. P., Medvec, V. H., Thompson, L., and Bazerman, M. H. (2009). The Reality and Myth of Sacred Issues in Negotiations. *Negotiation and Conflict Management Research, 2*(3), pp. 263-284.

Thomas, D. C. (2009). Explaining the Negotiation of EU Foreign Policy: Normative Institutionalism and Alternative Approaches. *International Politics, 46*(4), pp. 339-357.

Thompson, L. (2006). *Negotiation Theory and Research*. New York: Taylor & Francis.

Thompson, L., Wang, J., and Gunia, B. C. (2009). Negotiation. *Annual Review of Psychology, 61*, pp. 491-515.

Thomson, R. (2009). Actors Alignments in the European Union Before and After Enlargement. *European Journal of Political Research, 48*(6), pp. 756-781.

Thomson, R. (2011). *Resolving Controversy in the European Union: Legislative Decision-Making Before and After Enlargement*. Cambridge University Press.

Thorhallsson, B., and Wivel, A. (2006). Small States in the European Union: What Do We Know and What Would We Like to Know? *Cambridge Review of International Affairs, 19*(4), pp. 651-668.

Thuderoz, C. (2017). Why Do We Respond to a Concession with Another Concession? Reciprocity and Compromise. *International Negotiation, 33*(1), pp. 71-83.

Toshkov, D. D. (2017). The Impact of the Eastern Enlargement on the Decision-Making Capacity of the European Union. *Journal of European Public Policy, 24*(2), pp. 177-196.

Touval, S. (1989). Multilateral Negotiation: An Analytic Approach. *Negotiation Journal, 5*(2), pp. 159-173.

Trompenaars, F., and Hampden-Turner, C. (2011). *Riding the Waves of Culture: Understanding Diversity in Global Business*. Nicholas Brealey International.

Trondal, J. (2003). EU Committees as Sites of Europeanisation. *Centre for European Studies (CES), Agder University College*, Working Paper no.2. www.hia.no/oksam/ces/wp/EU_ Committees_and_National_Adaptation.pdf. Retrieved 09 September 2018.

Tsebelis, G., and Hahm, H. (2014). Suspending Vetoes: How the Euro Countries Achieved Unanimity in the Fiscal Compact. *Journal of European Public Policy, 21*(10), pp. 1388-1411.

Ulbert, C., Risse, T., and Müller, H. (2004). *Arguing and Bargaining in Multilateral Negotiations*. Paper presented at the conference 'Empirical Approaches to Deliberative Politics', European University Institute, 21-22 May 2004, Florence.

Ury, W., Brett, J. M., and Goldberg, S. B. (1988). *Getting Disputes Resolved: Designing Systems to Cut the Costs of Conflict* (1st ed.). San Francisco: Jossey-Bass.

Van Keulen, M. (2004). The Netherlands 2004 EU Council Presidency: Dutch EU Policy-making in the Spotlights. *Sieps 2004: 1op*. Stockholm: Swedish Institute for European Policy Studies.

Van Keulen, M. (2010). *Going Europe or Going Dutch?: How the Dutch Government Shapes European Union Policy*. Amsterdam University Press.

Van Roozendaal, P., Hosli, M. O., and Heetman, C. (2012). Coalition Formation on Major Policy Dimensions: The Council of the European Union 1998 to 2004. *Public Choice, 153*(3/4), pp. 447-467.

Voss, J.-P., and Freeman, R. (2016). Introduction: Knowing Governance. In J.-P. Voss and R. Freeman (Eds.), *Knowing Governance* (pp. 1-33). Springer.

Wallace, H. (1996). The Institutions of the EU: Experience and Experiments. In H. Wallace and W. Wallace (Eds.), *Policy-Making in the European Union* (3rd ed.). Oxford: Oxford University Press.

Wallihan, J. (1998). Negotiating to Avoid Agreement. *Negotiation Journal, 14*(3), pp. 257-268.

Walton, R. E., and Mckersie, R. B. (1965). *A Behavioral Theory of Labor Negotiations*. New York: McGraw Hill.

Warntjen, A. (2010). Between Bargaining and Deliberation: Decision-Making in the Council of the European Union. *Journal of European Public Policy, 17*(5), pp. 665-679.

Welch Larson, D. (1998). Exchange and Reciprocity in International Negotiations. *International Negotiation, 3*(2), pp. 121-138.

Wendt, A. (1999). *Social Theory of International Politics*. Cambridge; New York: Cambridge University Press.

Wessels, W. (1997). An Ever Closer Fusion: A Dynamic Macropolitical View on Integration Processes. *Journal of Common Market Studies, 35*(2), pp. 267-299.

Westlake, M., and Galloway, D. (2004). *The Council of the European Union* (3rd ed.). London: John Harper Publishing.

White, J. B., Tynan, R., Galinsky, A. D., and Thompson, L. (2004). Face Threat Sensitivity in Negotiation: Roadblock to Agreement and Joint Gain. *Organizational Behavior and Human Decision Processes, 94*, pp. 102-124.

Wolf, K. D. (1999). Defending State Autonomy: Intergovernmental Governance in the European Union. In B. Kohler-Koch and R. Eising (Eds.), *The Transformation of Governance in the European Union* (pp. 231-248). London: Routledge.

Zartman, I. W. (2010). Conflict Management as Cooperation. In I. W. Zartman and S. Touval (Eds.), *International Cooperation: The Extents and Limits of Multilateralism* (pp. 161-181). Cambridge University Press.

Zhang, Z.-X., and Han, Y.-L. (2007). The Effects of Reciprocation Wariness on Negotiation Behavior and Outcomes. *Group Decision and Negotiation, 16*, pp. 507-525.

Zimmer, C., Schneider, G., and Dobbins, M. (2005). The Contested Council: Conflict Dimensions of an Intergovernmental EU Institution. *Political Studies, 53*, pp. 403-422.