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Gerald Schneider, Daniel Finke, Konstantin Baltz

Gerald Schneider, University of Konstantz, Germany
Daniel Finke, Research Institute for Public Administration, Speyer, Germany
Konstantin Baltz, University of Konstantz, Germany

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Interest Intermediation in the Domestic Pre-Negotiations of EU Legislation

Gerald Schneider¹/Daniel Finke²/Konstantin Baltz³

¹ Professor of Political Science and Executive Editor “European Union Politics”; Department of Politics and Management; University of Konstanz; Box D 86; D-78457 Konstanz; Tel: +49-7531-88-3081/2608; Fax: -2774; E-mail: gerald.schneider@uni-konstanz.de

² Ph. D. student, Research Institute for Public Administration, Box 1409, 67324 Speyer, Germany, Phone: +49-(0)6232-654-435; E-Mail: Finke@foev-speyer.de

³ Research Assistant, Department of Politics and Management, University of Konstanz; Box D 86; D-78457 Konstanz; E-mail: konstantin.baltz@uni-konstanz.de

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Keywords

Interest intermediation – European Union – Domestic Politics – Nash Bargaining Solution (NBS) – Model evaluation
Abstract

Theories of interest intermediation maintain that the formation of bargaining positions in the European Union follows a distinctive bargaining style. This article evaluates such claims empirically. It compares the predictive accuracy of Nash bargaining models that take the distinctive features of five types of interest intermediation into account. We show that the interaction between government agencies, interest groups and parties in the formation of EU legislation is largely étatiste. When important private interests are at stake, the pattern is also quite often clientelistic or corporatist. The dominance of the state in the less politicised decision making processes is apparent in all four countries under consideration: Finland, Germany, Great Britain, and the Netherlands. Consociationalist arrangements are rare in this arena of public policy making.
Introduction

Integration theorists have repeatedly clashed over the role that interest groups play in the process of European integration. Especially Haas (1958, 1964) argued that the activities of integrationist elites must be taken into account before cooperation can be realized. Sandholtz and Zysman (1989) demonstrated in this vein how multinational firms were pushing governments into the adoption of the 1992 program. These rosy assessments are in considerable contrast to negative effects that public choice scholars associate with interest groups. Gillingham (1991) has attributed the foundation of the European Coal and Steel Community to the wishes of the cartelistic industry to receive increased government protection. In his history of the integration process, he laments the turn towards corporatist decision making under the reign of Commission President Delors (Gillingham 2003). The resulting mixture between étatiste interventions and clientelism has, in the view of this ultra-libertarian author, contributed to the European growth problems.

The common problem of both the optimistic and the pessimistic statements is their shaky empirical foundation. As the comparative literature on interest intermediation is rather descriptive, we do not really know how interest groups and government interact in European Union decision making. This paper tries against this backdrop to uncover the structure of interest intermediation for the domestic prenegotiations that take place after the European Commission has introduced a new legislative proposal. We will examine the formation of the bargaining stances across 15 proposals and four member states: Finland, Germany, the Netherlands and the United Kingdom. According to a rich literature, these states should follow a different logic of interest intermediation. While Great Britain is associated with a pluralist competition between interest groups, continental states have traditionally involved private actors in the preparation of legislative projects. Most authors suspect that corporatist forms of interest intermediation should also unfold in the domain of EU policymaking (Grote and Schmitter 1999), while some researchers believe that consociationalism becomes
increasingly relevant within the European Union (Crepaz 2002, but see also Bogaards and Crepaz 2002, Kaiser 2002).

The article takes issue with these claims and assesses the predictive accuracy of corporatist, consociationalist, pluralist, étatiste and clientelistic models of interest intermediation. Our evaluation of the competing models of interest intermediation relies on the Nash Bargaining Solution (NBS), a canonical tool in bargaining theory. Data on the preferences of the actors are derived from the National Decision Making in the European Union (NDEU) data set. Our comparative evaluation of the diverse bargaining models show that the étatiste NBS has the highest predictive accuracy; the consociationalist model, in return, provides the most inaccurate forecasts at the average. The findings reveal that the state is the ultimate arbiter in this domain and show, moreover, important differences between the four countries under examination. A comparative case study on one legislative proposal illustrates these divergences.

**Patterns of Interest Intermediation in the four member states**

The literature on interest intermediation still follows the traditions inaugurated by the pioneering work of Lehmburch and Schmitter (Lehmbruch 1967, Schmitter 1974, Lehmburch and Schmitter 1982). These authors advanced the hypothesis that the relationship between contending interest groups resembles corporatist rather than pluralist patterns of interaction. Although the empirical significance of this conjecture is still not clear (Traxler and Knittel 2000), there is an ever-increasing number of articles that analyze the causes and consequences of corporatist intermediation in Europe and beyond (Grote and Schmitter 1999).

The growing importance of the European Union has affected this discussion in several ways. Most studies analyze the possible transformation of interest intermediation at the EU level (Andersen and Eliassen 1993, Greenwood and Aspinwall 1998, Mazey and Richardson 1993, Pedler and Van Schendelen 1994). Some studies contend that the European Union
increasingly shows corporatist features (Gorges 1996), while others believe that the European Union is moving into a pluralist direction (Traxler and Schmitter 1995). Crombez (2002), by contrast, contends that no patterns should be recognizable in the aggregate because the preference profiles over the different decision making processes vary too much. This agnostic attitude has its predecessor in Freeman (1989). He cautioned that patterns of interest intermediation might perhaps be observable for sectors, but probably not for countries or, in our case, for a supranational entity like the European Union.

Only a handful of studies examine how interest groups try to influence their governments at the domestic level (Van Schendelen 1993). Greenwood and Jordan (1993) believe that the national channel of influence is still dominant in Great Britain. Based on an extensive survey Eising (2004) contends that “national and EU associations have established a pronounced division of labor among them”.

The large number of conflicting hypotheses makes it quite hard to assess whether interest intermediation in the European Union matches a specific pattern. A further problem for such an assessment is the profusion of competing definitions of key concepts. This is most obvious for the category of “corporatism” which is often employed as a general term that covers all sorts of conflicts of interests although it has mainly been designed for usage in the context of business-labor interactions. In a thorough evaluation of the existing literature, Siaroff (1999) has identified 22 “structures” that are supposedly characteristic of a corporatist political economy, and he evaluates the empirical significance of 23 competing rankings.

These qualifications have to be kept in mind for the attempt undertaken in this paper to test the predictive accuracy of different systems of interest intermediation for the domestic pre-negotiations on EU-politics. If we first refer to the conventional distinction between “corporatism” and “pluralism”, most observers agree that the four countries under examination should be differently classified. According to Siaroff’s survey of 23 rankings (1999)², the Netherlands is the most corporatist country, followed by Germany, Finland and
the United Kingdom. If we also take the institutional characteristics of a country into account, the dichotomy between majoritarian and consensus democracies seems to be most useful. Lane and Ersson (1997, 1999) use the rankings of different authors on this dimension and establish that Finland can be considered to be the most consensual country of the four states under examination and the United Kingdom the most majoritarian.

The literature lets us expect that domestic pre-negotiations should follow, by and large, the general patterns of interest intermediation prevailing in a member state. This would mean that Finnish interactions should be corporatist or consociationalist and that the government should be biased in favour of workers and consumers. In the Netherlands and in Germany, the corporatist system of interest intermediation should show a bias towards business and producer interests. The literature finally suggests that Great Britain is dominated by a pluralist mode of interaction. As we have found state actors (Schneider and Baltz 2005) and producers interests (2003) to be particularly influential in analysis of the lobbying success of actor groups, we will also consider étatiste and clientelist interest intermediation as possibly prevailing modes of interaction in EU legislative decision making at the national level.

In the following, we will test whether interest intermediation in the domestic pre-negotiations of EU legislations follows a particular logic. As the actor positions should be related to each other on a specific question, we will introduce different negotiation models and evaluate their predictive accuracy. Such an issue level analysis is more appropriate than an actor-focused approach for an evaluation of different systems of interest intermediation not the least because the relative success of one actor within one issue depend on the efforts of competing groups, rendering a comparison of individual actors not impossible, but at least complicated. The baseline for all competing bargaining models is the Nash Bargaining Solution (Nash 1950) which seems especially appropriate in light of the broad consensus that
bargaining is the dominant decision making mode in systems of interest intermediation (Lehmbruch 1976). 4

**Research Design**

We operationalised all variables using the National Decision Making in the European Union data set (NDEU). This data set contains detailed information on 15 legislative proposals that the European Commission initiated and that were between 1997 and 1999 submitted to the member states for consideration. The NDEU cases refer to a larger sample of around 70 legislative proposals that are fully analysed in the publication of the Decision Making in the European Union (DEU) research group (Thomson et al. 2006, Stokman and Thomson 2004). The DEU data set is a stratified sample of the legislative proposals of the European Commission from 1997 to 2000. The 15 proposals we examine here cover very different policy areas, reaching from health over consumer to fishery policy. Table 1 shows furthermore differences in the number of contested issues that these proposals created, the number of actors and the variance of the policy positions.

((Table 1 here))

We relied on expert interviews and secondary sources to gather the decision making data. Four collaborators from the University of Konstanz were sent, after initial inquiries about the competence and availability of the prospective interview partners, to the four member states to conduct structured in-depth elite interviews. The research assistants asked the policy experts about their knowledge on the domestic negotiations which precede the interactions within the Council of Ministers. The experts identified first the controversial issues within a proposal. Our research teams then asked them to name the actors that became active within the decision making process. They also had to locate the ideal points of these stakeholders on each issue and the final position of the ministry in charge for the pre-negotiations on each issue of importance in the domestic pre-negotiations. If possible, they had to pinpoint the
reference point (the outcome chosen in case the piece of legislation is not accepted) and the saliency each actor attributed to a proposal.

To render the proposals comparable, we normalized all actor positions, their power and the possible outcomes on scales ranging from 0 to 100. Hence, the underlying assumption of the research endeavour is that we can represent policy conflict on a continuous scale. As the systems of interest intermediation differ in the identification of the key players and their relative bargaining power, we have calculated different NBS that take such divergences into account. To start with, the pluralist NBS assumes that the lead ministry in charge of the domestic pre-negotiations tries to strike a balance between the interests of all formal and informal groups that have become active in a decision making process. Thus, the pluralist model that we test in the following contains the positions of all stakeholders on an issue. The consociationalist NBS, conversely, only refers to powerful interest groups which coordinate their positions on the contentious issues. The consociationalist model thus only considers the positions of the most powerful actors left and right of the lead ministry whereas the corporatist model also takes the position of this crucial government agent into account. The étatiste model of interest intermediation only refers to the positions of the lead ministry and other participating state actors (Schneier and Baltz 2005). The clientelistic model, by constrast, takes the positions of the leading ministry and those stakeholders into consideration who are no more than 1/3 of the maximum possible distance away from the initial position on the left or the right side of the initial position of the leading ministry. Hence, only close “allies” of the agenda setting state actor are considered to be relevant in this model.

As we encountered severe differences in the relative influence of different actor types on decision making outcomes in previous studies (e.g. Schneider and Baltz 2003), we computed a symmetric and an asymmetric Nash Bargaining Solution (NBS) for each model of interest intermediation. The symmetric NBS predicts that the actors collectively choose a
unique solution in the non-empty bargaining space $\Theta$. This solution is computed through the maximization of the product of the actors’ utility functions $U$:

$$SYM.\ NBS = \max_{\Theta \in \Theta} \prod_{i=1}^{n} U_i$$  \hspace{1cm} (1)$$

where $i=1,...,n$ is the subscript for the stakeholders and

$$U_i = |D_i| - |pos_i - o|$$  \hspace{1cm} (2)$$

where $0 \leq o \leq 100$ and constraint by the side condition of individual pareto efficiency ($U_i \geq 0$ for all $i$).

Here, $pos_i$ denotes the policy position of actor $i$ and $D_i$ is his disagreement value, while $o$ is the negotiation outcome. Therefore the utility of actor $i$ increases the smaller $|pos_i - o|$ as compared to $D_i$.

The asymmetric NBS adds to this setup the power differences between the participating actors as an exponent. We use the power measure of the expert interviews for this purpose.

$$ASYM.\ NBS = \max_{\Theta \in \Theta} \prod_{i=1}^{n} U_i^{P_i}$$  \hspace{1cm} (3)$$

where $p_i$ is the power of stakeholder $i$.

Unlike the models presented in Bailer and Schneider (2006) as well as Schneider, Finke and Bailer (2006), we do not equate the disagreement value $D_i$ with the distance between reference point (sq) and the actor’s policy position ($|sq - pos_i|$) for two reasons: i) To rely on the reference point for the operationalization of the disagreement value would in our deterministic model set-up and under the side condition of individual pareto efficiency necessarily imply for most cases that the outcome equals the reference point. ii) A common reference point for all players does not exist in most cases which means that we cannot denote this point as the disagreement value.
To avoid this problem of indeterminacy, we assume in line with cooperative game theory that all actors benefit from a collective agreement. We therefore operationalize each player’s disagreement value as a function of what she can expect to achieve without cooperation. The disagreement value reflects each player’s capability to avoid the worst case scenario in case no agreement is reached; the capability in itself is assumed to be a function of each player’s relative bargaining strength.\textsuperscript{6} The disagreement value is accordingly defined as follows:

\[
D_i = (1 - p) \cdot g_i, \quad \text{where } g_i = \begin{cases} 
\text{pos}_i & \text{if } \text{pos}_i \geq 50 \\
100 - \text{pos}_i & \text{if } \text{pos}_i \leq 50
\end{cases}
\]  \hspace{1cm} (4)

with \( p \) measuring the relative power (\( \sum p_i = 1 \)) of the respective stakeholder \( i \) and \( g_i \) is the worst case scenario for this actor. Equation (4) implies for the extreme case that one player owns all power resources (\( D=0 \)), that its policy position will be the collective outcome. In the other extreme case of a completely powerless actor, the individual disagreement value equals the worst case scenario with 50\( < \)D\( < \)100.

Table 2 and Figure 1 illustrate the calculation with a simple three actor example. The three actors hold linear utility functions at 20, 25 and 70. The outcome that maximizes the NBS is at 40.

((Table 2 and Figure 1 here))

\textbf{A proposal on jurisdiction in e-commerce as an illustration}

In this section we illustrate our model evaluation strategy with the results from a case study. We have chosen the legislative proposal COM (99) 348 which deals with civil and commercial judicial cooperation in the EU and the enforcement of judgments by revisions of the Brussels and Lugano Conventions as an example. This Commission proposal is based on these already existing Conventions, which were first discussed in the early 1970s. One goal of
the legislative project was to broaden the scope of the existing legislation to deal with issues like e-commerce. The main dispute that the Commission proposal created refers to the different possibilities of jurisdiction. Yet, the conflicts that this proposal created at the domestic level were not purely legalistic. As important economic interests were at stake, producer and consumer organizations became active besides the lead ministry and other state actors.

We plot for each member state the positions of the activated stakeholders on the issue. In the event that the Commission proposal opened up a multi-dimensional policy space in a member state, we restrain our visualization of the relative positions of the stakeholders to the most important issue of the proposal.7

Germany: The proposal led to a peculiar institutional response in Germany since there are two ministries in charge of the proposal. The Ministry of Justice and the Ministry of Economy and Technology shared the duty of being the “leading ministry”. This creates no further difficulty since both ministries coordinated and issued relatively similar initial positions.

The expert identified nine other stakeholders that became active during the pre-negotiations on this piece of legislation: the German Law Society, the Federal Professional Association of Lawyers (Bundesanwaltskammer), the Federal Notary Public Chamber Association (Bundesnotarkammer), the Federal Association of freelance professions (Bundesverband der Freien Berufe), the DIHT (German Industry and Treatment Conference/Deutscher Industrie- und Handelstag), the Federation of German Industries (BDI), the AGV (Working Association of the Consumer Groups), the Association of the Media and the Green Party.

These actors disagreed on three issues. The first bone of contention related to the question which Law should be applied. The producer camp (DIHT, BDI) supported the country of destination principle. The consumers (AGV) and the Greens, by contrast, favoured
the country of origin principle. The Ministries took a middle position. The second issue similarly tackled with liability. The Media Association argued that the provider has to be responsible. Consumer organizations and the Greens maintained that the firms which offer any type of service via internet to the consumers have to be liable. The last controversial issue dealt with the scope of the proposed regulations: the AGV and the Green party opted for strong regulation which, in their opinion, should have benefited the national consumers. The laissez-faire position was represented by the Federal Association of freelance professions and the Media Association.

Only three stakeholders, the Federal Professional Association of Lawyers, the DIHT and the BDI, were overtly lobbying for their position. The addressee of these campaigns was always one of the two responsible ministries. The expert emphasized in the interview that the Federal Government was not interested in talks with any domestic interest group. Interest groups were only invited to participate in hearings at the EU level.

Figure 2 shows the relative positions of the active stakeholders on the most important issue in the German pre-negotiations as well as the forecasts of each model. ((Figure 2 here))

The plot shows that the consociationalist and one of the clientelist models are closest to the outcome, which we measure through the national position of the lead ministry, followed by the etatiste model. The corporatist and the other clientelist model fare worst in predicting the outcome.

**Netherlands:** The Ministry of Justice was the sole agenda setter on this proposal. As our expert indicated, business associations rather underestimated the significance of the envisioned piece of legislation. Seven stakeholders became active on at least one of three issues under contestation.
The question of which court should be responsible in e-commerce disputes prolonged the decision making process in the Netherlands. Two coalitions with extreme preferences rendered it rather difficult for the lead ministry to come up with a common position. The Ministry of Economic Affairs, supported by industry organizations, fought for the country of origin principle, fearing rising costs in case of judicial conflict if the country of destination principle would be applied. The other camp united the Ministry of Justice and consumer organizations; this group of stakeholders favoured the country of destination principle. The Ministry of Finance, which was almost indifferent between these polarized groups, took nevertheless part in the domestic negotiations. The lead ministry solved the deadlock situation by moving closer to the position of the Ministry of Finance.

Other issues were of a more technical nature and referred for instance to the problem whether or not the Netherlands should change from \textit{siège statutair} to \textit{siège réel}. The Dutch system concerning the seat of a company is the \textit{siège statutair} (domicile of the company) whereas Germany, Great Britain and Belgium for example know the \textit{siège réel} which considers rather the effective place of business. Only the Dutch Parliament preferred to move to the other legal doctrine; all other stakeholders, including the bar association, the state commission for International Private Law and the Ministries of Economic Affairs and Justice, opposed such a change. The last technical issue revealed a special conflict inside the national bureaucracy between the Ministry of Justice and the state commission for International Private Law whether alternative principles or exemptions should be heeded or not. The State Commission opposed the inclusion of any alternative principles into the draft of the proposal, favoured by the Ministry of Justice and managed to exclude at least some of the envisioned alternatives or exemptions by the Ministry but not all of them.

Figure 3 visualizes the positions of all stakeholders and it also displays the forecasts of each bargaining model on the most important issue which is again the question of the principle of jurisdiction.
The comparative evaluation of the forecasts of the models for this proposal shows clearly that both pluralist models and one of the clientelist models are very close to the actual outcome. It seems that the distribution of actor preferences on this issue does not discriminate between the different bargaining models. Either all or only those actors closest to the leading ministry were thus affecting the final outcome of this decision making process. Similar to the issue in Germany the corporatist model offers the worst prediction on this issue in the Netherlands.

_Finland:_ This Commission proposal constitutes nothing more than a transformation of already existing Conventions into a Council Directive. The changes occurring through this transformation were agreed upon between the Member States in 1999. As a consequence, the Ministry of Justice as the competent body did not organise any hearings, as it was not considered to be necessary to consult any interest groups. Therefore, the main stakeholders involved were only the Ministry of Justice, Parliament, the Chamber of Commerce and the Consumer Ombudsman. The only issue on which some sort of conflict among the different stakeholders arose was the aspect of consumer protection regarding e-commerce. Here, the original national jurisdiction would have had to be changed. The Ministry of Justice had the opinion that the existing formulation (‘0’) should be adapted to the aspect of e-commerce (‘100’), as this aspect was in its view not covered satisfactorily. The Parliament and the Consumer Ombudsman shared this position. The Chamber of Commerce shared the point of view of the other Member States, i.e. the Reference Point, which meant that there would be no need for changes in covering the aspect of e-commerce. As the Commission proposal did not raise any substantially new issues, no remarkable threats or promises occurred during the negotiations.

Figure 4 provides the preferences of the stakeholders and the location of the predictions of the interest intermediation models on the single issue of importance in Finland.
The majority of the bargaining models predict the outcome correctly or are at least close to it. The model with the highest prediction error is the clientelist model with actor positions on the left side of the ministry.

*Great Britain:* This case differs from the other three member states since the Lord Chancellor’s Department was the domestic agenda setter and not the Ministry of Justice. The British government thus viewed this legislative proposal much more as a financial than a purely legalistic matter. Yet, there have not been any substantive disputes on this proposal in Great Britain. Some disagreement arose over the question of whether or not a regulation was necessary at all. Another discussion involved the question which court should be responsible to decide on disputes concerning e-commerce contracts. The general rule in international private law is that the court in the consumer’s country is responsible but there are efforts to change this in view of the huge amount of SME e-commerce suppliers which cannot afford the cost of legal procedures in other member states. But the British government refused to fight for this position although it was supported by all departments involved. It feared that a discussion endangered the whole compromise already achieved between the member states. But they agreed to support each member state that would put forward such a proposal while ensuring that this would be the only change to the compromise.

The only remaining issue of importance was whether e-commerce judgments should be included in the regulation or not. E-commerce traders, advertising associations and the Confederation of the British Industry fought for the exclusion of such judgments. This liberalist position was fiercely opposed by consumer organizations and all activated state actors, including the Department of Trade and Industry, the Scottish Administration and the lead ministry, the Lord Chancellor’s Department. Despite their intense lobbying the e-
commerce lobbies did not succeed in changing the initial position of the Lord Chancellor’s Department.

Figure 5 locates the preferences of the stakeholders and the predictions of the interest intermediation models on the single issue of importance in Great Britain. Three models capture the outcome correctly - the étatiste, one of the clientelist and the corporatist models -, whereas the consociationalist model is completely off the mark. ((Figure 5 here))

The descriptive evidence of this case study shows that there are significant differences between the four member states with respect to mobilization of stakeholders. We could thus expect that government agents would be largely successful with their proposal in those countries where the conflict intensity was low (UK and Finland); the étatiste model should accordingly have the highest predictive accuracy among the competing models of interest intermediation. Other explanations should be, conversely, more successful in predicting the outcome in Germany and the Netherlands where the Commission proposal led to more intense discussions.

Our calculations of the distance between the outcome and the predictions confirm these suspicions. Hence, the étatiste model fares best in Finland and the UK with in fact no prediction error at all in both countries. The accuracy of the corporatist and the consociationalist models has to do with the fact that they are largely identical with the etatiste model since the number of non-state actors is relatively small. In Germany and the Netherlands one of the models incorporating the position or power of interest groups fare at least as good as the étatiste model or, in the Dutch case, much better.

**Predictive Accuracy of the Interest Intermediation Models**

In this section we evaluate the predictive accuracy of the competing models of interest intermediation for all issues in all four member states, using different evaluation criteria to
assess the predictive accuracy of the bargaining models. The first measure we employ is the mean absolute error (MAE) of the predictions on each issue, which is a standard benchmark ranging from 0 (no error) to 100 (maximal error). Table 3 reports the MAEs of the seven different models for all issues and for each of the four member states separately together with the maximum error of each model. Note that we do not include the asymmetric version of the corporatist and consociationalist models because their results do not differ significantly from those of the symmetric ones.

((Table 3 about here))

The results reported in Table 3 show that one model, the symmetric étatiste model, fares best in comparison to all other models examined here. The corporatist model and the pluralist model that takes the power asymmetries between the actors into account are ranked next to it. The symmetric pluralist model and one of the clientelistic models are in between, while the consociationalist model is at the bottom of the ranking. Comparing the two clientelistic models against each other confirms that those stakeholders seem to win from the domestic bargainings which are more integration-prone than the lead ministry, since a higher value on the 100-point preference scale indicates in most cases a more integration-prone attitude. The ranking between the two clientelistic models is only reversed in Germany. This means that the German ministry which is in charge of coordinating the domestic response to a Commission proposal is slightly more influenced by integration-sceptical groups than the “agenda setting” state actors in the other countries. This is also an indication of a particular political bias: Because “integration” often stands for consumer rather than producer friendly legislation, the German government often yields towards the pressure exerted by business lobbies (Schneider and Baltz 2003).

The evaluation also underlines the role that state actors play in EU politics. The difference in the predictive accuracy of the consociationalist and the corporatist model illustrates this. The two models only differ insofar as the former excludes the lead ministry
and the latter includes it as relevant stakeholders. A detailed analysis of the agenda setting capacity of the state actors confirms that the ministry formally in charge possesses considerable discretion during the domestic pre-negotiations across the four member states (Schneider and Baltz 2005).

Quite remarkably, the relative differences between the models are generalisable across all four member states under examination. Even in those countries purported to have a corporatist system of interest intermediation, the étatiste model offers at the average the most precise forecasts. Because the lead ministry did often not have to change its initial position in Great Britain, the corporatist and especially the étatiste model fare particularly well for this country. This means that in Great Britain state actors dominate the domestic bargaining processes that EU legislative proposals initiate. Great Britain also does not seem to be more pluralist than Germany or the Netherlands, which contradicts the textbook classifications of the systems of interest intermediation prevailing in these countries.8

As Bueno de Mesquita (2004) has recently argued, the MAE has some shortcomings as a yardstick for model evaluation. It understates for instance the predictive error of a model as far as the maximum prediction error is a relevant consideration for predictive success. The MAE also does not take border or ceiling effects into account. We can therefore expect that the MAE correlates both negatively or positively with the number of alternative positions on an issue. If, for example only the extreme positions of the issue continuum are occupied (0 and 100) and the prediction is at 50, the maximum prediction error can be only 50 points. If more than two (extreme) positions are issued (for example three at 0, 75, and 100 respectively) and the prediction is at 75, the maximum error can be 25 (if the outcome is 100) or 75 (if the outcome is at the other extreme side of the preference scale).

A second evaluation benchmark, the number of point predictions, avoids these problems. Table 4 provides the predictive accuracy of the models in this respect. We
distinguish three “margins of error”. The first level of tolerance allows for deviations of 0.1% of the entire range, the second one extends this to 1% and the third criterion to 10%.

(\text{Table 4 here})

The results reported in Table 4 differ somehow in comparison to the MAE evaluations. Although the symmetric étatiste model still offers the most precise forecasts, the ranking nevertheless changes slightly. The clientelistic model with groups on the left side of the position of the lead ministry and the symmetric pluralist model augur both badly, with the symmetric pluralist model now at the bottom of the ranking. They have much fewer “perfect hits” – point predictions within the restrictive 0.1% error margin - than all the other models; this tendency holds up to an error level of 10%. This tendency reveals that government agents rather tend to give in if they have an important actor to their right rather than to their left. The corporatist model scores second best of all models. The results of the clientelistic model with groups on the right side of the position of the leading ministry are almost equally good. This version of the clientelistic model is beaten by the asymmetric pluralism model only at a 10%-level of error. Table 4 suggests again that the predictions of the consociationalist model remain quite imprecise; government actors are, in other words, necessary for our understanding of EU interest intermediation at the domestic level. The errors of the pluralist and the clientelistic models seem to be much more concentrated around an “average” error level. These bargaining games offer fewer perfect hits than the corporatist model but also have a lower maximum error than the consociationalist model.\footnote{These results should caution those researchers who draw conclusions about the system of interest intermediation in one country from studies focussing only on one policy field, one piece of legislation or one country alone. Our analysis shows that such generalizations disregard that European legislation involves a varying set of actors across countries and proposals. Interest interemediation can thus be within the same country once pluralist, on other occasions clientelistic or the negotiations can solely take place among state actors. The}
empirical evidence also suggests that an étatiste model of bargaining predicts the actual outcome at the average most precisely. Consociationalist patterns are, in return, less frequent than some part of the literature on interest intermediation lets us expect.

We have also conducted some sensitivity analyses to identify the factors that contribute to the forecasting error of the models. The main finding is that a polarization in the preferences of the actors exerts a strong influence on the accuracy of the predictions. Other measures of the preference distribution like the variance or the skewness are only significant for some models.

**Conclusion**

We examined in this paper whether we can use the conventional classifications of the systems of interest intermediation for four member states of the European Union to predict the national bargaining position of the ministry negotiating at the Council level. First, our empirical analysis revealed that the pattern of interest intermediation in the domestic pre-negotiations is less clear-cut than assumed by the literature on systems of interest intermediation. The activation and coalition pattern among state and non-state actors vary so much across the different proposals that general typologies can only explain to some extent the domestic pre-negotiations. This supports the implicit impossibility thesis of Crombez (2002) and Freeman (1989) that almost no generalizations about interest intermediation are possible. Second, our analysis also underlines that state actors dominate the national negotiations on most issues. Yet, if non-state actors become involved, a corporatist understanding of the negotiations is much more helpful than a consociationalist one. Third, the predictive success of the corporatist model depends heavily on the inclusion of the state actors. This is a striking blow for the proponents of the thesis that the system of interest intermediation moves into an era where strong associate could counter-balance the influence of the national governments. Although governments have to respect the interests of their
stakeholders to some extent, they possess ample and largely uncontrolled discretion in EU affairs. Our analysis has finally also broken new ground by bringing the combination of formal models and systematic tests to the study of interest group behaviour in the European Union. While the field is slowly moving towards a systematic assessment of specific actor groups (Woll 2006), it has up to now shied away from rigorously evaluating systems of interest intermediation. The paper show that we can use applied game theory for this purpose.
### TABLES AND FIGURES

Table 1: A comparison of the proposals across four countries

<table>
<thead>
<tr>
<th>Proposal</th>
<th>Number of Issues</th>
<th>Number of actors*</th>
<th>Standard deviation</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>D</td>
<td>Fin</td>
<td>NL</td>
</tr>
<tr>
<td>End-of-life vehicles</td>
<td>2</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td>Taxation on savings income</td>
<td>3</td>
<td>3</td>
<td>3</td>
</tr>
<tr>
<td>Taxation of cigarettes</td>
<td>2</td>
<td>1</td>
<td>2</td>
</tr>
<tr>
<td>Supervision e-money</td>
<td>1</td>
<td>3</td>
<td>3</td>
</tr>
<tr>
<td>Notification agreements</td>
<td>3</td>
<td>3</td>
<td>5</td>
</tr>
<tr>
<td>Legal aspects of e-commerce</td>
<td>3</td>
<td>4</td>
<td>2</td>
</tr>
<tr>
<td>Prevention/ Control of TSE</td>
<td>1</td>
<td>1</td>
<td>3</td>
</tr>
<tr>
<td>Limits vet. medical products</td>
<td>0</td>
<td>0</td>
<td>4</td>
</tr>
<tr>
<td>Establishment of &quot;Eurodac&quot;</td>
<td>1</td>
<td>0</td>
<td>3</td>
</tr>
<tr>
<td>North-East Atlantic Zone fishing</td>
<td>0</td>
<td>0</td>
<td>1</td>
</tr>
<tr>
<td>Jurisdiction comm. matters</td>
<td>3</td>
<td>1</td>
<td>3</td>
</tr>
<tr>
<td>Dialogue common fisheries</td>
<td>1</td>
<td>2</td>
<td>2</td>
</tr>
<tr>
<td>Bovine animals/ swine</td>
<td>0</td>
<td>0</td>
<td>1</td>
</tr>
<tr>
<td>Equal treatment employment</td>
<td>1</td>
<td>2</td>
<td>3</td>
</tr>
<tr>
<td>Toys made of PVC</td>
<td>3</td>
<td>3</td>
<td>3</td>
</tr>
<tr>
<td>Aggregate value</td>
<td>24</td>
<td>24</td>
<td>39</td>
</tr>
</tbody>
</table>

*Note: The official notation of these legislative proposal is, in descending order, as follows.

Com (97) 358; Com (98) 295; Com (98) 320; Com (98) 461; Com (98) 546; Com (98) 586;
Com (98) 623; Com (99) 130; Com (99) 260; Com (99) 345; Com (99) 348; Com (99) 382;
Com (99) 456; Com (99) 565-7; Com (99) 577

* Highest number of actors per issue taken in case that the number of actors varies within a multi-issue proposal
Table 2: The Model Parameters exemplified with three Players

<table>
<thead>
<tr>
<th></th>
<th>Pos</th>
<th>P</th>
<th>g</th>
<th>D</th>
<th>o</th>
<th>U</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Player 1</strong></td>
<td>20</td>
<td>0.3333</td>
<td>80</td>
<td>53.3</td>
<td>40</td>
<td>33.3</td>
</tr>
<tr>
<td><strong>Player 2</strong></td>
<td>25</td>
<td>0.3333</td>
<td>75</td>
<td>50</td>
<td>40</td>
<td>35</td>
</tr>
<tr>
<td><strong>Player 3</strong></td>
<td>70</td>
<td>0.3333</td>
<td>70</td>
<td>46.7</td>
<td>40</td>
<td>16.7</td>
</tr>
</tbody>
</table>
Table 3: Mean average error of the model predictions

<table>
<thead>
<tr>
<th>NBS model of interest</th>
<th>All issues (n=108)</th>
<th>German</th>
<th>Netherland</th>
<th>Finland</th>
<th>Great Britain</th>
<th>max. error</th>
</tr>
</thead>
<tbody>
<tr>
<td>Consociationalism</td>
<td>40,16</td>
<td>30,58</td>
<td>51,91</td>
<td>32,46</td>
<td>38,1</td>
<td>100</td>
</tr>
<tr>
<td>Corporatism</td>
<td>14,37</td>
<td>17,29</td>
<td>15,18</td>
<td>15,41</td>
<td>8,02</td>
<td>84,9</td>
</tr>
<tr>
<td>Symm. Etatism</td>
<td>12,95</td>
<td>17,66</td>
<td>13,31</td>
<td>15,42</td>
<td>4,95</td>
<td>70</td>
</tr>
<tr>
<td>Symm. Pluralism</td>
<td>26,32</td>
<td>23,08</td>
<td>29,72</td>
<td>23,17</td>
<td>27,29</td>
<td>75,5</td>
</tr>
<tr>
<td>Asymm. Pluralism</td>
<td>21,97</td>
<td>19,93</td>
<td>24,5</td>
<td>19,28</td>
<td>22,69</td>
<td>76,8</td>
</tr>
<tr>
<td>Clientelism-Right</td>
<td>26,74</td>
<td>31,52</td>
<td>26,96</td>
<td>24,16</td>
<td>23,82</td>
<td>100</td>
</tr>
<tr>
<td>Clientelism-Left</td>
<td>33,59</td>
<td>28,3</td>
<td>35,88</td>
<td>33,9</td>
<td>35,05</td>
<td>89,9</td>
</tr>
</tbody>
</table>

Note: The Clientelism-Right model considers stakeholders to the right of the position of the Leading Ministry, the Clientelism-Left to the left.
<table>
<thead>
<tr>
<th>NBS model</th>
<th>≤0.1%</th>
<th>≤1%</th>
<th>≤10%</th>
</tr>
</thead>
<tbody>
<tr>
<td>Consociationalism</td>
<td>24</td>
<td>26 (24.07%)</td>
<td>37 (36.11%)</td>
</tr>
<tr>
<td></td>
<td>(22.22%)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Corporatism</td>
<td>47</td>
<td>47 (43.51%)</td>
<td>63 (58.33%)</td>
</tr>
<tr>
<td></td>
<td>(43.51%)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Symmetric Etatism</td>
<td>49</td>
<td>49 (45.37%)</td>
<td>67 (62.04%)</td>
</tr>
<tr>
<td></td>
<td>(45.37%)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Symmetric Pluralism</td>
<td>2 (1.85%)</td>
<td>4 (3.7%)</td>
<td>30 (27.78%)</td>
</tr>
<tr>
<td>Asymmetric Pluralism</td>
<td>13</td>
<td>15 (13.89%)</td>
<td>45 (41.67%)</td>
</tr>
<tr>
<td></td>
<td>(12.04%)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Clientelism (right of LM)</td>
<td>19</td>
<td>19 (17.59%)</td>
<td>39 (36.11%)</td>
</tr>
<tr>
<td></td>
<td>(17.59%)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Clientelism (left of LM)</td>
<td>4 (3.7%)</td>
<td>4 (3.7%)</td>
<td>25 (23.15%)</td>
</tr>
</tbody>
</table>

Table 4: Number of point predictions

Divergence (error level)
Figure 1: Utility Functions and NBS-Function (scaled) exemplified for three Players (see Table 3).
Figure 2: Plot of relative actor positions & model forecasts for the most important issue in Germany on Com99/348 (principle of jurisdiction: country of origin vs. country of destination principle or nuances of one or the other)

<table>
<thead>
<tr>
<th>0</th>
<th>10</th>
<th>20</th>
<th>30</th>
<th>40</th>
<th>50</th>
<th>60</th>
<th>70</th>
<th>80</th>
<th>90</th>
<th>100</th>
</tr>
</thead>
<tbody>
<tr>
<td>CO</td>
<td>NP</td>
<td>BA</td>
<td>MJ</td>
<td>LO</td>
<td>PLA</td>
<td>ME</td>
<td>AFW</td>
<td>CORP</td>
<td>MA</td>
<td>DIHT</td>
</tr>
<tr>
<td>Greens</td>
<td>ETA</td>
<td>NA</td>
<td>CLR</td>
<td>BDI</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>CON</td>
<td>PLS</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>CLL</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Note: MJ=Ministry of Justice (=initial position of leading ministry), ME=Ministry of Economic Affairs (=2nd leading ministry), Greens=Green Party, LO= Lawyer’s Organisation, CO=Consumer Organisations, LO= Lawyer’s Organisations, BA=Bar Association, MA=Media Associations, AFW= Association of Freelance Workers, NA=Notaries Associations, DIHT= Associations of German Chambers of Industry and Commerce (Deutscher Industrie- und Handelstag), BDI = Federation of German Industries, NP=outcome (national position of leading ministry), CLL=Clientelism left, CLR= Clientelism right, CON=Consociationalism, CORP=Corporatism, ETA=Etatism, PLS=symmetric Pluralism, PLA=asymmetric Pluralism
Figure 3: Plot of relative actor positions & model forecasts for the most important issue in the Netherlands on Com 99/348\textsuperscript{10}

<table>
<thead>
<tr>
<th>ME</th>
<th>LA</th>
<th>NP</th>
<th>CLR</th>
<th>CORP</th>
<th>Parl</th>
</tr>
</thead>
<tbody>
<tr>
<td>MJ</td>
<td>PLS</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>State Com</td>
<td>PLA</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>CON</td>
<td>CLL</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>ETA</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Note: MJ=Ministry of Justice (=initial position of leading ministry), ME=Ministry of Economic Affairs, MF=Ministry of Finance, State Com=State Commission for International Private Law, Parl=Parliament, LA=Lawyer’s Association, NP=outcome (national position of leading ministry), CLL=Clientelism left, CLR=Clientelism right, CON=Consociationalism, CORP=Corporatism, ETA=Etatism, PLS=symmetric Pluralism, PLA=asymmetric Pluralism
Figure 4: Relative stakeholder positions and model forecasts for Finland on Com 99/348

<table>
<thead>
<tr>
<th></th>
<th>0</th>
<th>50.22</th>
<th>70.95</th>
<th>78.55</th>
<th>100</th>
</tr>
</thead>
<tbody>
<tr>
<td>CC</td>
<td>CLL</td>
<td>PLS</td>
<td>PLA</td>
<td>MJ</td>
<td>CO</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>P</td>
<td>SQ</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>NP</td>
<td>CON</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>ETA</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>CLR</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>COR</td>
</tr>
</tbody>
</table>

*Note:* CLL=(Prediction of) Clientelism Left, CLR=Clientelism Right, ETA=Etatism, CON=Consociationalism, COR=Corporatism, PLS= symmetric Pluralism, PLA= asymmetric Pluralism, NP=national position (after pre-negotiations), SQ=Status Quo, MJ=Ministry of Justice (=leading ministry and therefore its initial position), CO=Consumer Ombudsman, P=Parliament, C=Central Chamber of Commerce
Figure 5: Relative stakeholder positions and model forecasts for the UK on Com 99/348

<table>
<thead>
<tr>
<th></th>
<th>ET</th>
<th>AA</th>
<th>BI</th>
<th>CLL</th>
<th>PLS</th>
<th>PLA</th>
<th>LC</th>
<th>DTI</th>
<th>CO</th>
<th>SA</th>
<th>NP</th>
<th>SQ</th>
<th>ETA</th>
<th>CLR</th>
<th>COR</th>
</tr>
</thead>
<tbody>
<tr>
<td>0</td>
<td>20</td>
<td>50</td>
<td>58,9</td>
<td>61,8</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Note: CLL=(Prediction of) Clientelism Left, CLR=Clientelism Right, ETA=Etatism, CON=Consociationalism, COR=Corporatism, PLS= symmetric Pluralism, PLA= asymmetric Pluralism, NP=national position (=outcome of pre-negotiations), SQ=Status Quo, AA=advertising associations, ET=e-commerce traders, BI=confederation of British industry, LC=Lord Chancellor’s Department (=initial position of leading ministry), DTI=Department of Trade and Industry, CO=consumer organizations, SA=Scottish Administration

24 March 2006; 8385 words

Literature


**Endnotes**

1 See also the discussion on the power of economic interest groups in Grossman (2004).
The overall rank out of 15 countries examined, the mean scores and the standard deviation of these four countries are as follows: Netherlands: 4th, 4.0, 1.0; Germany: 6th, 3.5, 0.9; Finland: 7th, 3.3, 1.0; United Kingdom: 12th, 1.5, 0.8.

The different scores that Lane and Ersson quote are as follows: Finland: 1, 1.65, 1.49, 1.47; Netherlands: 2, 1.58, 1.69, 1.40; Germany: 1, -0.11; -0.68; -0.07; United Kingdom: 0, -1.3, -1.16, -1.25.

An Evaluation of Competing Game-Theoretic Models' use different versions of the NBS to assess the predictive accuracy of competing models of EU decision making, in particular the interactions within the Council of Ministers.

Similar to Schneider, Finke and Bailer (2004) we constrained the possible values of the optimization function to the bargaining space between 0 and 100 and we relied on the constrained optimisation routine in GAUSS for the calculation of the optimized solution. We used the Newton algorithm as optimization method and employed the mean as the starting vector in all models. The mean was calculated from the positions of all national stakeholders on each issue of a proposal. As indicated in the acknowledgments, the GAUSS routine that was used to calculate the bargaining solutions can be found on the replication homepage of the first author.

We owe this suggestion to James D. Fearon. We also conducted calculations involving a common disagreement value to be able to compare our results if they are sensitively depend upon the operationalization of the disagreement point. The results of the calculations using a common disagreement value changed only slightly. The same is true if the actors’ probability to encounter the worst case scenario is defined by his relative distance to the reference point.

The following description of the domestic negotiation processes in the four member states is based upon the interviews with the experts and the summaries of our interviewers. An accompanying table that offers summary evidence can be found on the replication homepage of the first author.

The results obtained by using the reference point differ only slightly: The best predictions offers still the étatiste model (MAE over all issues=0.16), followed closely by a clientelistic model taking only those actors on the right side of the position of the leading ministry into account (MAE=0.165) and the asymmetric pluralist model (MAE=0.21). The winners in this contest are followed by the clientelistic model with groups on the left side of the leading ministry (MAE=0.23) and the symmetric pluralist model (MAE=0.27). The corporatist model still offers the worst predictions (MAE=0.29).
A third and for direct comparisons between the models more useful measure is the number of times that one model forecasted the outcome better than another one. We do not present the results from this prediction error measure because its results corroborate in general those gained by the MAE measure.

Some stakeholders have not been active on all three issues of this proposal. They are thought to be indifferent between the national status quo and the position of the leading ministry, so we imputed the mean between the reference point and the initial position of the leading ministry as their position on those issues. Issue 3 has no clear reference point, therefore the initial position of the leading ministry was imputed for the actors active on the other issues but not on the third one.