

The Negotiation of EU Foreign Policy:
Normative Institutionalism and
Alternative Approaches

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The Negotiation of EU Foreign Policy:

Normative Institutionalism and Alternative Approaches

Abstract:

Despite the vast literature on the development of EU foreign policy institutions and the EU's growing experience as an international actor, relatively little effort has been made to explain the often-contentious negotiations among Member States that determine whether or not a common policy is adopted, and if so, what it will be. This paper proposes a Normative Institutionalist theory of intra-EU negotiations on foreign policy and external relations, specifying and comparing its core hypotheses and observable implications to those derived from Intergovernmentalism as well as theories of Social Learning and Normative Suasion.

The European Union clearly has the potential to exercise great influence in world affairs. It is widely admired around the world as a successful model for regional economic and political integration. Its combined GDP and its foreign investments are both comparable to those of the United States, its population is 50% larger, it has the largest total development aid budget in the world, and it has 27 votes in the United Nations, including two permanent seats on the Security Council. It has even developed a limited capacity for united military action abroad. Yet even though the Treaty on European Union (TEU) commits Member States to pursue common policies, they do not always manage to reach agreement.

Understanding the European Union's actual role in world affairs thus requires understanding the process by which Member States seek to overcome their divergent preferences and reach agreement on common foreign policies.

Despite the real-world importance of this challenge, it has never been subjected to the same theoretically-guided and methodologically-rigorous inquiry that has become the norm in studies of EU treaty negotiations, the process of legal integration, the regulation of the single market, and the dynamics of monetary union. Instead, most work on EU foreign policy has tended to describe the evolution of the EU's procedures and competence in this area (M.E. Smith 2004a), to examine its impact on foreign policy formation and culture at the

Member State level (Tonra 2001), or to assess the EU's international actions in terms of normative consistency or effectiveness (Ginsberg 2001, K. Smith 2003). In contrast, this paper analyzes the making of EU foreign policy by deducing hypotheses from general theories of bargaining, negotiation and socialization in international relations and testing them with a standard empirical research methodology. To start, it introduces a Normative Institutionalist theory of EU foreign policymaking that highlights the effect of pre-existing EU norms and commitments on foreign policy negotiations among Member States, specifying the observable expectations and scope conditions of two hypotheses derived from the theory. It then contrasts these hypotheses with three alternative hypotheses highlighting the effects of veto threats, policy learning and normative suasion. Finally, it describes the research design and case selection utilized to test the five hypotheses.

Before proceeding, it is important to clarify that the paper defines EU foreign policy as the set of policies adopted by the Union's Member States to address issues and manage relationships beyond their collective external border. This includes policy areas dominated by the Member States, namely the Common Foreign and Security Policy (CFSP) and European Security and Defense Policy (ESDP), areas where policy-making competence is shared by Member States and supranational institutions, such as enlargement, environment and anti-terrorism, and areas where supranational institutions play a leading role, such as trade, even though the EU classifies the latter two as "external relations."

Accordingly, the dependent variable for empirical analysis of EU foreign policy could be any of the following policy outputs, which we define as "common policies": Council Conclusions related to world affairs; the principal instruments of CFSP/ESDP (Common Strategies, Common Positions, and Joint Actions); and the wide variety of positions adopted in other areas of external relations, such as mandates for international negotiations on trade, environment, or EU accession, decisions on development or humanitarian assistance, or the

imposition of sanctions, to name just a few. The paper takes as given (i.e., does not seek to explain) the policy preferences that Member States bring to the start of EU-level deliberations.

I. The Puzzle and Research Question

EU Member States have been extremely reluctant to transfer decision-making authority for foreign and security policy to supranational European institutions. In contrast to other policy areas, where the Member States have accepted a prominent role for the European Commission and the European Court of Justice, they have insisted on a heavily inter-governmental process for decision-making on foreign and security policy (Koenig-Archibugi 2004). As a result, the provisions of the CFSP grant considerable bargaining power to individual Member States with respect to the adoption of particular policies (Decaux 2002, Müller-Brandeck-Bocquet 2002).

With the exception of measures taken to implement pre-existing Common Strategies, all policies adopted under CFSP or ESDP require unanimous support and are thus subject to veto by a single Member State. And since the EU has adopted relatively few Common Strategies (as opposed to the more frequent Common Positions and Joint Actions), the vast majority of policies are adopted by unanimous agreement of the Member States. Even where the Treaty on European Union allows qualified majority voting (QMV), an individual Member State may block it for “important and stated reasons of national policy.” The European Commission has greater authority on “external relations” issues, and QMV is formally the rule here, but Member States retain considerable powers to block the adoption of policies they do not like (Pocar 2002). As such, the British government’s blunt assertion -- “When we don’t agree, there is no common policy” -- could thus have been voiced by any Member State in any area of EU foreign policy (cited in Reynolds 2004). The new Treaty on

the Functioning of the European Union ('Lisbon Treaty') would not change these fundamental provisions.

So while some observers suggest that the EU has already achieved 'superpower' status (Whitman 1997, Reid 2005, McCormick 2006, Cameron 2007), others are deeply skeptical about foreign policy as a functional area of EU policy-making. Skeptics of EU foreign policy point, for example, to its failure to achieve a unified position on recognition of the Yugoslav successor states in 1992 or on the U.S.-led invasion of Iraq in 2003 as evidence of insuperable divergences in the Member States' foreign policy preferences. According to David Allen (1998:47), the EU cannot have a real foreign policy unless it becomes a state: "A European foreign policy could only be achieved by creating central institutions within a European Union capable of identifying, selecting, and implementing a coherent set of objectives that could be legitimized as being in the European interest. But this could only be achieved by the establishment of a European state and hence a European government." And yet we know that while decades of integration have transformed Europe's 'nation states' into 'Member States,' the latter have not merged into a single unified state.

It is thus noteworthy that the EU's Member States have reached agreement on more than 800 legally-binding common strategies, common positions, and joint actions under CFSP since 1993, involving high-profile diplomatic disputes, economic sanctions, and even the use of military force. Adoption of such common policies has increased considerably over time, from an average of just over 15 per year in 1993-1995 to an average of 110 per year in 2004-2006. Although the possibility of qualified majority voting was introduced in 1999, approximately three-quarters of all common policies are still adopted by unanimity.¹ In addition, the EU Council and Presidency issued 1890 statements or declarations during 1995-

¹ Summary figures calculated from «Actes Juridiques PESC: Liste Thématique, » Bruxelles, 31 décembre 2006, http://www.consilium.europa.eu/cms3_fo/showPage.asp?id=248&lang=EN&mode=g (accessed 22 February 2006).

2007 – an average of one every two and half days -- reflecting Member State consensus on particular developments in world affairs.² Finally, EU Member States generally act together in the United Nations Security Council, General Assembly, and other UN forums (Laitikainen and Smith 2006; K. Smith 2006). In short, the empirical record is inconsistent with the skeptics' portrayal of CFSP as a policy-area plagued by non-cooperation. When we consider other foreign policy areas that the EU classifies as "external relations," such as enlargement, development cooperation, global environmental policy, and especially trade, the record of policy agreement despite divergent preferences is even more striking.

One could hypothesize, of course, that the EU achieves common policies when the Member States' preferences are identical and fails to achieve common policies when preferences diverge. Yet easy harmony of preferences is rare and this hypothesis leads one to expect failure of agreement except for those few issues where the Member States' preferences are identical or where the stakes are so small that nobody cares about the outcome. Moreover, we know this to be false: Member States' representatives often argue intensively about issues that nobody considers inconsequential before they reach agreement on a common policy. Nor can we simply dismiss these debates as meaningless rhetorical exercises. The reason that such debates are so intense, it is reasonable to assume, is that even where some preference convergence has occurred, the quest for agreement on an EU policy involves the compromise of policy preferences and adjustment of policy behavior by Member States that otherwise would prefer to avoid such concessions.

This focus on the challenge of overcoming the divergent policy preferences of the Member States is not to say that the EU's supranational bodies are irrelevant to the making of EU foreign policy and external relations: quite the opposite is true. Nor is it to say that EU Member States always have radically different preferences. In fact, there is good reason to

² Summary figures calculated from "CFSP Statements", http://www.consilium.europa.eu/cms3_applications/applications/newsRoom/loadBook.asp?BID=73&LANG=1&cmsid=257 (accessed 8 May 2008).

believe that frequent and intensive consultation between Member States has weakened egoistic identities and accustomed national policy-makers to seeking out the views of their EU counterparts before determining a national position on a particular issue. Over time, this has produced a partial convergence in the strategic cultures and identities of the Member States and thus in their foreign policy preferences. Yet even the most optimistic observer would admit that this Europeanization of the foreign policy-formation process is far from complete: the pursuit of common and community policies most often involves not implementing a single set of preferences shared by the Member States, but negotiating the differences that persist between them with regard to policy goals and strategy.

Thus we return to the research question introduced above: How and under what conditions do EU Member States overcome their divergent preferences to reach agreement on common policies regarding issues and actors beyond their collective external border? This question draws attention to the behavioral choices of potential veto player(s) in intra-EU negotiations – i.e., the Member State(s) whose agreement is critical for the EU to achieve consensus. While all Member States are formally capable of obstructing agreement, the veto card is most likely to be played on any given issue by the most conservative Member State (seeking the smallest departure from the status quo), the most ambitious (seeking a great departure from the status quo and unwilling to accept less), the most committed (with the most intensive commitment to its preference), the most interested (with the most at stake in this policy area), the most powerful (whose choices will be closely watched by others), or some group thereof. The five hypotheses presented below differ not only in their general claims regarding the factors determining EU policy choice, but also with regard to the role that potential veto players are likely to play in intra-EU negotiations.

II. Explaining EU Common Policies

This section of the paper presents the project's core and alternative hypotheses regarding how EU Member States overcome divergent preferences to reach agreement on common policies and what type of policy outcome is likely to result. The core hypotheses reflect a Normative Institutionalist approach to international relations and European governance, which posits that the EU's substantive and procedural norms significantly shape the behavior of its Member States. The relative explanatory power of this approach can only be assessed, however, when compared to alternatives whose assumptions, observable expectations, and scope conditions have also been clearly and fairly presented. This presentation of Normative Institutionalism and associated hypotheses is thus followed by alternative hypotheses focused on the veto option, the exchange of policy-relevant information, and normative suasion. This theoretical exposition lays the groundwork for an assessment of the various hypotheses' explanatory power through an examination of their correspondence with evidence from intra-EU negotiations and policy outcomes across a range of case studies.

Normative Institutionalism

Normative Institutionalism is one strand of the new institutionalist theorizing current in political science and international relations since the late 1980s (March and Olsen 1989, Peters 1999). Institutionalist theories of European integration and governance treat the EU as a community of states whose rules and supranational organizations exert a significant impact on policy outcomes (Jupille and Caporaso 1999, Stone Sweet, Sandholtz and Fligstein 2001). While recognizing that Member States dominate the creation of EU institutions, Institutionalism asserts that these institutions come to exert an independent effect on Member States' subsequent negotiating behavior and policy choices. In short, "membership matters"

(Sandholtz 1996). Some versions of Institutionalism emphasize the EU's supranational organizations and transnational policy entrepreneurs (Armstrong and Bulmer 1998, Sandholtz and Stone-Sweet 1998), while others emphasize formal rules such as the EU treaties' distribution of policy-making competences (Tsebelis 1994, Garrett and Tsebelis 1996). In contrast, Normative Institutionalism emphasizes the behavioral impact of standards of appropriateness established by the community's normative and policy commitments.

Normative Institutionalism assumes that Member States are committed to ensuring the Union's political viability (albeit probably to varying degrees) and value being seen as acting in accordance with its normative and policy commitments, regardless of their divergent preferences with regard to particular policy issues. It asserts that EU decision-making on any given issue is shaped by the normative and policy commitments already made by Member States in the course of creating the Union's institutions, enlarging its borders, and adopting policies to govern its internal dynamics and external relationships. In fact, given its dense web of laws and regulations and the multitude of policies that it has adopted, the European Union is almost certainly the most normatively structured transnational space on Earth.

So what are these normative and policy commitments? Through a combination of rhetorical commitment and treaty-making, EU Member States have developed two meta norms as a general guide to their deliberations on foreign policy and external relations: joint action as an intrinsic value, including support for the functionality and credibility of the EU as a global actor; and consistency and coherence in EU policy-making across time and issue-areas. In addition to these meta-norms, EU Member States have established a number of substantive (i.e., ends-oriented) and procedural (i.e., means-oriented) norms. In treaties and Council conclusions, Member States have formally and repeatedly identified support for democracy and the rule of law, human rights, conflict prevention, the strengthening of multilateral institutions, free trade, and the promotion of development as the principal goals

of EU foreign policy and external relations. In recent years, environmental protection has also emerged as a substantive EU norm.

In addition, as discussed above, the EU has formally adopted nearly a thousand legal acts under CFSP (not to mention all those in other areas of external relations) to address issues and problems in world affairs. Some of these acts are politically insignificant, but the list includes hundreds of substantive policies that all EU Member States are legally bound to support. Furthermore, at least three procedural norms have developed informally through Member State practice over time: regular communication and consultation, including the expectation that Member States will not publicize 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 where it is permitted by treaty (Jørgensen 1997, Lewis 1998 & 2003, M.E. Smith 2004a).

As a result, EU Member States pursue their foreign policy and external relations preferences within an institutionalized setting that encourages certain negotiating practices and legitimates certain substantive outcomes while discouraging and delegitimizing others. If Normative Institutionalism is correct, these norms and policy commitments should have a significant effect on how Member States negotiate divergences in their policy preferences and on the type of policies they adopt at the EU level. The likelihood that the EU will adopt a common policy on a given issue, as well as the content of that policy, thus depend upon both the distribution of preferences among the Member States (which varies from issue to issue) and how EU norms affect their choices in pursuit of those preferences. The following two hypotheses -- complementary but not necessarily interdependent -- specify this expectation in more detail.

H-1: Entrapment

Although the policy preferences of EU Member States may diverge on particular issues, they value “coherence and consistency” in EU foreign policy and value being seen as acting in accordance with the community’s normative and policy commitments. As a result, this hypothesis asserts, the policymaking behavior of Member States is shaped significantly by shared perceptions regarding which policy options are consistent or inconsistent with pre-existing EU norms and commitments. Those Member States whose policy preferences are seen as inconsistent with the EU’s substantive norms or policy commitments are less willing to insist on their preferences and more acquiescent to those with norm-consistent preferences. They thus compromise their preferences and “play along” with the norm-consistent policy because they expect the social rewards for doing so to exceed the costs of the compromise. As a result, once Member States have committed themselves to a particular set of norms and/or policy course, they are likely to find themselves entrapped, constrained to take further actions that do not reflect their original intentions and/or current preferences (Schimmelfennig 2001, 2003, 2004). This dynamic affects all Member States, including potential veto players. If this is correct, one would expect EU common and community policies to be consistent with pre-existing EU norms and policy commitments.

Of course, the perception of normative (in)consistency is subject to deliberate acts of “framing” that link issues and choices to pre-existing ideas and prior experiences (Benford and Snow 2000, Payne 2001). Successfully framing a possible common or community policy as consistent with the EU’s formal norms and prior policy commitments disempowers its opponents, while framing a possible policy as inconsistent with existing norms and commitments disempowers its supporters. All political actors – whether Member State, supranational or non-governmental organization – thus have a powerful incentive to frame EU policy choices in terms of pre-existing norms and commitments consistent with their

policy preferences. For example, where one EU actor has set the negotiation agenda by highlighting an EU norm conducive to its preferences, others may seek to level the playing field by offering reasons why alternative norms should guide policy choice. Member States that fail to do so will find themselves trapped in support of EU policies that diverge from their preferences.

Normative Institutionalism's 'entrapment' hypothesis can thus be represented as follows:

Divergent Member State preferences + Rhetorical framing → Entrapment → Norm-consistent policy

Furthermore, entrapment is most likely to occur when several conditions are met:

C-1: *Determinacy*. Entrapment is more likely when the relevant substantive norms are determinate – that is, when actors, regardless of their preferences, have little doubt about which norm applies to the issue at hand, which policy behavior it condones and which it condemns (Franck 2000).

C-2: *Precedent*: Entrapment is more likely when the EU has already made policy commitments on the issue at hand – that is, already invested its resources and reputation on behalf of one principle or party involved in the issue at hand.

C-3: *Relevance*: Entrapment is more likely when external conditions are relevant to or consistent with the assumptions that underlay the existing EU norm or policy commitment. Where conditions are irrelevant or inconsistent, actors are disentrapped (or released) from their normative or policy commitments. For example, an EU commitment to offer privileged market access to a particular country because it is poor would no longer entrap Member States if that country ceased to be poor.

C-4: *Forum*: Entrapment is more likely when policy deliberation occurs within forums where EU norms and policy commitments are salient and thus exert strong compliance pull. Generally speaking, this means within the EU, though it may also pertain to deliberations within closely allied institutional forums such as the Council of Europe. When Member States negotiate in a forum shielded (at least partly) from the compliance pull of EU norms, which is most likely outside the EU, then entrapment is less likely. EU Member States are disentrapped when operating within institutional forums that assign them distinctly non-EU roles, such as mediator between third parties or the rotating presidency of an international organization.

C-5: Publicity: Entrapment is more likely when the issue under discussion has received significant public attention, which increases the likelihood that non-compliance with existing EU norms or policy commitments will be noticed and subject to disapproval.

However, many policy-making scenarios cannot be reduced to a single and determinate norm legitimating a single course of action. If two or more EU norms are equally relevant to the issue at hand, they may dictate contradictory policies and thus create a situation of mutual entrapment. For example, Member States that prefer policy X may find themselves entrapped by the norm dictating policy Y while Member States that prefer policy Y are simultaneously entrapped by norm X. Or Member States may agree on which EU norm is relevant to an issue, but if the norm is indeterminate, they may differ over its implications for the choice at hand. In either situation, the dynamics of entrapment discussed above will be under-determining with regard to policy choice.

When faced with situations where entrapment is under-determining, Member States may resort to threats in pursuit of their policy preferences, may exchange information that could influence each other's factual understanding of the issue at hand, or they may seek to persuade each other that one course of action is normatively superior to others, as suggested by the alternative hypotheses introduced below. But as the Cooperative Bargaining hypothesis explains, they may also bargain in a manner consistent with the premises of Normative Institutionalism.

H-2: Cooperative Bargaining

The growth and institutional stability of the EU have created the conditions that, according to negotiation scholars, foster a cooperative approach to negotiations: identification with common goals and values and trust in the dynamics of diffuse reciprocity (Elgström and Jönsson 2000; Scharpf 2006). These conditions encourage EU negotiators “to remember some identities and common ties, and to forget identities that tend to create cleavages and

conflicts” (March and Olsen 1998: 961). Over time, these conditions have been reinforced by procedural norms that encourage policymakers to consult each other before publicizing their preferences, to seek consensus, and to refrain from making veto threats, which are now deeply embedded in Member State practice and expectations. Hence the tendency among scholars to refer to a “consultation reflex” shared by foreign policy makers in EU Member States (Nuttall 1992). In the words of a senior British official, “The foreign policy process has become Europeanised, in the sense that in every international issue, there is an exchange of information and an attempt to arrive at a common understanding and a common approach – compared to how things were in the past, where most issues were looked at in isolation without addressing the attitudes of other Member States or a European dimension” (cited in Aggestam 2004:81).

The increased identification with Europe, the consensus norm and consultation reflex have not eliminated divergences in Member State preferences, but they have significantly transformed the process by which Member States deliberate collectively on foreign policy. Similarly, while these developments have not denied Member States the ability to exercise a veto in pursuit of their policy preferences, they have made Member States less willing to act on their veto rights and more inclined to discount such threats made by others. It is therefore reasonable to hypothesize that as Member States deliberate over foreign policy issues at the EU level, movement toward common policies is dominated by cooperative tactics (also known as “integrative bargaining” or “problem-solving”) rather than the competitive tactics that prevail in less-institutionalized settings (Lax and Sebenius 1986, Hopmann 1995, Elgström and Jönsson 2000)³. And when the collective goal is to reach an agreement that comes as close as possible to satisfying the preferences of all Member States -- *e.g.*, by

³ The terms “cooperative bargaining” and “competitive bargaining” were developed by Heather Elko McKibben, “Bringing About Cooperative Bargaining: The Causal Role of Issue Linkage Institutional Structures,” Ph.D. diss. in progress, University of Pittsburgh.

seeking to “expand the pie” rather than to divide it -- a different type of policy outcome is sure to result.⁴

If this hypothesis were correct, we would expect intra-EU negotiations to be characterized by a great deal of give-and-take in the context of an intensive search for solutions that are acceptable (if not ideal) for the greatest number of Member States. We would also expect that common policies resulting from this process would embody mutual compromises by all Member States, including those with the formal ability to avoid compromise by defending their preferences with a veto threat.⁵ Yet since politicians are generally reluctant to publicize their concessions, we would expect EU and Member State spokespeople to justify their negotiated agreements before European and foreign audiences by referring to the Union’s pre-existing substantive norms and policy commitments.⁶

In sum, Normative Institutionalism’s ‘cooperative bargaining’ explanation for EU policy outcomes can be represented as follows:

Divergent Member State preferences + Consensus norm/Consultation reflex → Cooperative bargaining → Mutual compromise policy

Of the two conditions likely to promote cooperative bargaining, the first (forum) is identical to one of the conditions for entrapment and the second (secrecy) is the exact opposite:

C-6: *Forum*. Cooperative bargaining is more likely to emerge when the issue in question is subject to collective deliberation within EU forums, where the EU’s procedural norms are most salient.

⁴ This expectation has never been systematically investigated in EU foreign policy and external relations, but there is considerable evidence of cooperative bargaining among Member States on other issues (e.g., Elgström and Jönsson 2005; da Conceição-Heldt 2006).

⁵ A mutual compromise is likely to be far from a lowest common denominator outcome, but it is not necessarily the same as a median compromise, which implies an agreement at the mid-point of actors’ preferences.

⁶ As such, post-facto references to pre-existing norms are not necessarily reliable evidence that agreement was achieved simply through entrapment.

C-7: *Publicity*. Cooperative bargaining is more likely to emerge when deliberations occur *in camera* -- that is, away from the media spotlight that raises the domestic political costs of compromise.⁷

The Normative Institutional theory of intra-EU negotiations thus emphasizes two explanatory hypotheses, each with its own scope conditions. In the end, it expects that Member States with considerable bargaining power will nonetheless make concessions in order to achieve a common policy that is consistent with the EU's existing commitments and/or that is partly responsive to the preferences of weaker Member States. In fact, the theory suggests that the EU will sometimes agree on new common policies even when some of the Member States prefer the status quo over all alternative policies on the table.

Alternative Hypotheses

Looking beyond Normative Institutionalism, one could identify a vast number of alternative explanations for EU agreement on common foreign policies. In the interest of manageability, this project considers three such alternative hypotheses, each of which posits a different relationship between interests, institutions, interactions and policy outcomes and thus contests a different assumption of the Normative Institutional approach. The alternative hypotheses differ from Normative Institutionalism with regard to whether the likely character of intra-EU negotiations and the resulting policy are determined more by pre-existing EU norms or by the veto option (H-3), and with regard to whether interactions among EU Member States affect just policy choices or underlying interests as well (H-4 & H-5).

⁷ Jeffrey Checkel (2001:563, 2005:813) makes a similar claim with regard to the pre-conditions for persuasion as a means of achieving norm compliance.

H-3: Competitive Bargaining

This hypothesis is close to the conventional wisdom on EU foreign policymaking. It derives from a pessimistic reading of the Intergovernmentalist theory of European integration and governance, which treats the EU as an international forum in which Member States acts strategically in pursuit of their interests and policy preferences on particular issues.

Intergovernmentalist theory attributes these preferences to the interaction of international pressures and domestic political considerations, and assumes that they are unaffected by EU membership or participation in EU institutions.

Furthermore, Intergovernmentalism assumes that divergences in the Member States' policy preferences are not significantly compensated by a shared commitment to common goals or values, and it emphasizes the fact that each Member State wields a potential veto over policy proposals (Hoffmann 1966, Moravcsik 1999). This pessimistic reading of Intergovernmentalism expects Member States to treat intra-EU negotiations as zero-sum games in which each seeks to maximize its own preferences. Member States may trade concessions on off-setting issues and thus shift their bottom-line in bargaining over policy choices, but such exercises in "specific reciprocity" (Keohane 1986) do not constitute a shift in their underlying preferences.

These assumptions regarding the preferences and calculations of Member States lead to the expectation of competitive bargaining (also known as 'hard bargaining') over policy alternatives (Scharpf 1988). In particular, whichever Member State is least receptive to change will dominate EU foreign policy by threatening to veto any proposal that is further from the status quo than its own ideal policy (Jupille 1999). As a result, the EU will have difficulty acting decisively, if at all, in world affairs: as long as common policies require unanimous support, "the EU will be hampered... by the constant threat of having one of its numerous Member States break from its ranks" (Meunier 2000:132).

Where Member States' policy preferences are mutually exclusive (such as the choice between cutting and expanding ties to a particular country), competitive bargaining will prevent the adoption of any common policy – an outcome known as deadlock. Where the disagreement of the Member States is a matter of degree (such as how much aid should be given to a particular country), competitive bargaining will likely result in agreement on whatever policy is acceptable to all Member States and closest to the ideal outcome of the one least receptive to change (i.e., the “lowest common denominator” or LCD). In practice, this LCD policy may be the status quo (agreement not to change an existing policy) or a new policy that reflects the preferences of the veto player. And since EU enlargement increases the number of potential veto players, the likelihood of agreement on non-LCD policies is further reduced by the admission of every new Member State (Tsebelis 2002).

The expectation of LCD outcomes is undeniable, of course, if one formally equates any non-status quo outcome with the preferences of the actor that is least open to policy change: “When each Member State possesses the power of veto, whether at the outset of a negotiation or at the ratification stage, the common position eventually reached is the lowest common denominator” (Meunier 2000:109). However, this equation blinds us to the possibility that some EU-level aspect of the policy-making process might lead Member States to forego the pursuit of outcomes that they prefer with respect to the issue at hand. In fact, evidence of Member States making veto threats is not sufficient evidence that the policy developed as expected by the competitive bargaining hypothesis – particularly if there is evidence that the threat was followed by a willingness to reach agreement through mutual concessions. The LCD outcome is thus better treated as an empirical possibility than as a theoretical assumption.⁸

⁸ Although most Intergovernmentalists working on EU foreign policy have treated competitive bargaining and LCD outcomes as highly likely -- which is why this hypothesis approximates the conventional wisdom -- the logic of Intergovernmentalism does not necessitate this outcome. Certain constellations of interests and preferences could create incentives for Member States to link concessions on off-setting issues and thus achieve

Intergovernmentalism's 'competitive bargaining' explanation for EU policy outcomes can thus be represented as follows:

Divergent Member State preferences + Veto option → Competitive Bargaining → Deadlock or Lowest Common Denominator policy

In short, intra-EU negotiations will yield policy deadlock or lowest common denominator outcomes because the threat of a veto by the Member State(s) with strong bargaining power will force the weak to compromise in favor of the policy preferred by the powerful. While this hypothesis is close to the conventional wisdom on EU foreign policy, other theories of international relations provide additional alternatives to Normative Institutionalism's focus on the behavioral effects of EU norms and policy commitments.

H-4: Policy Learning

This hypothesis derives from theories of how actors "learn" new policy preferences from each other as they grapple with the complexity and interconnectedness of international issues (Goldstein and Keohane 1993, Levy 1994)., EU Member States face considerable uncertainty regarding the implications of various foreign policy and external relations options for their interests and values. This uncertainty is most common, and policy learning is thus most likely to occur, when highly-technical scientific or economic issues are under discussion. However, the frequent opportunities for consultation offered by EU institutions enable them to reduce uncertainty by exchanging policy-relevant ideas and information. Seen in this light, the principal value of intra-EU foreign policy consultation is its contribution to a learning process whereby Member States whose policy preferences were originally divergent eventually converge around policy preferences indicated by particular bodies of information

mutual gains that avoid the dynamics and consequence of competitive bargaining. The EU policies that result from such Pareto-improving deals would closely resemble those discussed above under Normative Institutionalism's Cooperative Bargaining hypothesis. Future research will have to explore this possibility in more detail.

or causal ideas. Once preference convergence has occurred, agreement on common and community policies is not difficult.

In sum, the 'Policy Learning' explanation for EU policy outcomes can be represented as follows:

*Divergent Member State preferences + Exchanges of information → Policy learning
→ Preference convergence → Consensus policy*

Conceived in this manner, the learning process does not affect or transform the fundamental properties of the actors involved. However, as reflected in the next hypothesis, it is possible to imagine that ideational exchanges among Member States may have a far more profound effect than a simple recalculation of which policy is most likely to realize a given set of interests.

H-5: Normative Suasion

This hypothesis derives from Constructivist theories of international relations and European governance that posit an interactive relationship between the interactions of states and the understandings of self and self-interest that drive their behavior (Adler 2002, Risse 2004).⁹ It portrays the EU as a densely-integrated political community whose existence inexorably transforms the policy preferences of its Member States. In particular, the hypothesis emphasizes complex learning provoked by argumentation between EU and Member State officials involved in collective deliberations over competing policy options (Risse 2000, Checkel 2003, 2005). But in contrast to the dynamics of policy learning described above, suasion is pursued through the communication of normative reasons why particular Member States should reconceive their identities and fundamental interests and

⁹ While some scholars insist that Constructivism is not designed to generate testable or generalizable hypotheses and is thus incompatible with social science, others disagree, arguing that social science should not be equated with utilitarianism or rationalism. For the latter view, which informs this paper, see Ruggie (1998) and Price and Reus-Smit (1998).

thus their views on why particular policies are more desirable or more appropriate, particularly with reference to the target's identity as an EU member. They are likely to be exchanged through bilateral channels between Member States and within various Council formations such as CFSP working groups, the 133 Committee on trade policy, or Coreper.

Member States may engage in normative suasion under a variety of circumstances. For example, when policy preferences are polarized within Council formations, representatives of both positions may exchange arguments in an effort to persuade the other. "Old" Member States may direct their arguments at "new" Member States in an attempt to socialize them to EU norms, or "new" members may seek to overturn a long-standing policy consensus. A majority grouping of Member States (or pre-Lisbon Treaty, the Member State holding the Council presidency) may direct their arguments at whichever Member States are blocking consensus. But whatever the circumstance, successful normative suasion produces a convergence of Member State preferences that facilitates consensus on EU common policies.

In sum, the 'Normative Suasion' explanation for EU policy outcomes can be represented as follows:

Divergent Member State preferences + Normative arguments → Persuasion → Preference convergence → Consensus policy

Although attempts at normative suasion are probably inevitable whenever EU Member States disagree, these attempts will not always be successful. Research on socialization in international institutions identifies a number of conditions under which efforts at normative suasion are most likely to be successful. First, the target of the suasion attempt "is in a novel and uncertain environment and thus cognitively motivated to analyze new information." Second, the target "has few prior, ingrained beliefs that are inconsistent" with the reasons offered for redefining its interests or policy preferences. Third, the actor seeking to persuade "is an authoritative member of the ingroup to which the target belongs or wants to belong

[and/or] does not lecture or demand but, instead, acts out principles of serious deliberative argument.” And fourth, the interaction “occurs in less politicized and more insulated, in-camera settings” (Checkel 2005:813). All of these are potentially relevant to the various actors and institutional contexts involved in making EU foreign policy.

III. Research Design and Methodology

This study is designed as a robust plausibility probe (Eckstein 1975) of Normative Institutionalism as an explanation for EU foreign policy decision-making. Each case study relies on detailed process-tracing of intra-EU negotiations to gather and assess evidence for and against the two research hypotheses and the three alternative hypotheses as they apply to the issue at hand (George and McKeown 1985, George and Bennett 2004, Checkel 2006). To minimize bias in favor of “easy tests,” the case studies cover a broad range of issue-areas -- military, political-legal, economic and environmental – including some where supranational actors have little formal power and decisions rest on Member State unanimity and others where the European Commission has an agenda-setting role and decisions are made by qualified majority voting. Wherever possible, the case studies are broken into distinct sub-cases, yielding a total of 14 cases for empirical analysis.

Ascertaining the actual preferences of political actors is notoriously difficult, since observable behavior may be a reflection of true preferences or an attempt to gain advantage by concealing or miscommunicating preferences (Frieden 1999). The case studies thus rely on various combinations of evidence, including policy traditions, policy proposals, official statements, and material interests, to identify the initial preferences of Member States. Having mapped the divergences in preferences that structured intra-EU deliberations on the issue in question, including the preferences of likely veto players, they deduce the lowest common denominator outcome that would result from potential veto players refusing to make

any meaningful compromise on their preference. Using evidence of the actual policy-making process and the content of the policy agreed by the Member States, they then evaluate the relative explanatory power of the various hypotheses. When a case reveals evidence that multiple tactics were used in the course of intra-EU negotiations, evaluation of the hypotheses focuses on their distinct claims regarding the process that dominates movement toward agreement and the type of outcome to be expected.

Depending upon the character of the policy outcomes they exhibit, the various case studies face different explanatory challenges. If the policy outcome is best characterized as norm-governed consensus (H-1) or mutual compromise (H-2), the challenge is to demonstrate that there was no significant convergence of preferences and to explain why the potential veto player(s) failed to threaten a veto or were unwilling to execute their threat. If the policy outcome is best characterized as lowest common denominator (H-3), the challenge is to demonstrate that there was no significant convergence of preferences and to explain how the veto player(s) were able to dominate the negotiations and avoid making significant concessions or revising their preferences. Finally, if the policy outcome is best characterized as convergence of preferences (H-4 & H-5), the challenge is to highlight the domestic changes or intergovernmental interactions through which governments' preferences converged.

IV. Case Studies

The case studies represent a broad range of issue-areas and policy-making competences. Within the traditional foreign and security policy domain where Member States most clearly dominate policymaking, the first case is Richard Youngs' analysis of EU support for democratic reform in Ukraine, focused on policies during and after that country's 'Orange Revolution.' This study finds considerable evidence of normative entrapment in the first sub-

case but an LCD-like outcome in the second sub-case, and highlights the changing external conditions that undermined the explanatory power of Normative Institutionalism. The second case is Daniel C. Thomas' analysis of the EU's response to U.S. challenges to the International Criminal Court, which highlights the importance of institutional context in explaining intra-EU negotiations by comparing an LCD outcome that emerged during deliberations among three EU Member States in the UN Security Council and a mutual compromise that resulted from substantive and procedural norms when a very similar issue was raised within CFSP forums. The third study is Simon Duke's examination of how the EU achieved consensus in support of a limited military mission to the Democratic Republic of Congo, which finds considerable evidence of normative entrapment regarding the authorization of the mission and far less regarding the commitment of troops and equipment. This reflects the unique character of ESDP, which allows each Member State to decide the extent of its involvement in EU missions.

Leading off the set of papers within the broad domain of 'external relations', Frank Schimmelfennig explains why the EU has sometimes opened the door to Turkish accession while at other times it has moved toward closing the door. Comparing four stages or sub-cases in intra-EU negotiations regarding Turkish membership since the late 1990s, the paper argues that skeptical Member States find themselves entrapped by the Union's membership norms and prior commitments to Ankara when Turkey is moving toward implementation of fundamental EU norms, but free to act on their preferences when Turkey is contradicting EU norms. Jeffrey Lewis' study of EU policy on Iraq traces the movement from deadlock over the initial US-led invasion to the restoration of consensus through mutual concessions in favor of reconstruction assistance, which he finds was enabled by the Member States' sense of having endangered the procedural norms that traditionally guide Council deliberations and

the entrapment effect of substantive EU norms on democracy, humanitarian assistance, and the value of joint action in foreign affairs.

The final two papers examine policy areas where the supranational European Commission is generally assumed to dominate EU policymaking – trade and environment and find that not only do Member States play a major role, but their negotiating behavior and policy agreements generally fit the expectations of Normative Institutionalism. In his paper on Economic Partnership Agreements (EPAs) with developing countries, Ole Elgström finds that EU substantive norms of free trade and development assistance were hard for Member States to disavow, but the tension between these norms left space for real negotiation. Nonetheless, the EU's procedural norms of consensus-oriented negotiations facilitated a mutual-compromise outcome by limiting Member States' willingness to exploit this opportunity. Finally, John Vogler examines a policy area -- climate change -- where one might expect the material interests of Member States to dictate hard bargaining and a lowest common denominator outcome. Instead, he argues, the Union's high-profile role in the 1996-97 Kyoto negotiations created expectations regarding the EU as a global actor that entrapped the more cost-sensitive Member States into accepting an EU burden-sharing deal for the post-2012 climate change regime that is far more stringent than what would have resulted from competitive bargaining in defense of national energy sectors.

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