

## **Issue Linkage in the European Union\***

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## **Issue Linkage in the European Union**

As integration among the member states in the European Union (EU) has widened and deepened, an increasing number of issue areas have been put under the purview of EU policy. From its beginnings in the European Coal and Steel Community, the EU has expanded significantly, and now works in multiple areas such as foreign and defense policy, environmental policy, criminal law, and judicial affairs. It thus has the scope to deal with some of the most important issues in international politics today, including counter-terrorism, immigration, and climate change.

Because of its extension to a wide array of issue areas, the EU is an institution where the politics of issue linkage is likely to flourish in bargaining among the member states. If international institutions help states link together issues (Axelrod and Keohane 1986), and the EU – which deals with vast numbers of dossiers across a broad range of issue areas in its every day decision-making process – provides a wide array of potential issues to link, we might expect to see a significant number of linkages across these multiple dossiers and issue areas in the “everyday” politics of EU decision-making.<sup>1</sup>

In this memo, I argue that issue linkage and the extension of EU powers across these different issue areas have important effects on the negotiations among the member states (and on the EU decision-making process as a whole). However, it is not a linkage *across* issue areas where these effects are most pronounced, but rather through the linkage of smaller issues *within* a given dossier. The extension of power to the EU in these different issue areas therefore has an important effect on the negotiations that take place among the member states that has been largely overlooked – an effect that takes place through the *proposal-drafting power* (and thus the *power to define the set of issues in the proposal*) that has been produced in these issue areas (most often for the Commission).<sup>2</sup>

### **I. Linkage Across Issue Areas?**

The EU’s everyday decision-making structure of the Council of Ministers consists of three important levels: the Working Group, the Committee of Permanent Representatives (COREPER), and the Council of Ministers. Both the Working Group and the Council level deal only with specific issue areas. For example, the environmental working groups and Council deal only with environmental issues. COREPER, however, deals with a wide array of issue areas. COREPER I negotiates and prepares the work of the environment, employment, social policy, health and consumers, agriculture and fisheries, transport, telecommunication and energy, internal market and competition policy, and education, youth and culture Councils; COREPER II

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<sup>1</sup> The argument I make here is not intended to apply directly to the analysis of bargaining in Intergovernmental Conferences.

<sup>2</sup> Even in issue areas where the Commission does not have sole right of proposal, in actual practice, the Commission does often draft the proposals in these issue areas as well. In addition, the extension of EU power in these issue areas means that negotiations do not consist the member states sitting down at the negotiation table to negotiate with a “blank slate” or with their own separate lists of points, but that they come to the table with some draft text for an agreement that is presented to them either by the Commission or by a member state. It is the proposal itself, which serves to link a set of issues together, that I argue can have important effects.

negotiates and deals with the areas of justice and home affairs, budget, as well as with institutional and horizontal questions, and general affairs.

Because they negotiate a wide range of issues together, it is thus in COREPER that we might expect linkages across dossiers to occur. And there is some evidence of occasional linkages like this. When conducting interviews regarding the negotiations over the Services Directive in 2005 and 2006, several interviewees cited a “rumor” that was going around that the United Kingdom had “traded” the Services Directive to France to win on the Working Time Directive.<sup>3</sup> In addition, “horse-trading” among the member states is cited as somewhat common in the appointment of persons to EU positions. Moreover, there is evidence of a “diffuse reciprocity” – the non-explicit linking of issues across time.<sup>4</sup>

Interviews with Permanent Representatives and Deputy Permanent Representatives in COREPER, however, provided little evidence that the linkage of issues across different dossiers in different issue areas is a *widespread* or *common* phenomenon.<sup>5</sup> Indeed, interviewees were quite adamant that trading across different dossiers happens relatively “rarely” – “because you have to be in a situation where you can do it. And you have to have a clear mandate to handle these two or three cases at the same time so you can trade” (Interview with DPR, May 2005). The rarity of linkage across dossiers was highlighted by several other member state representatives.

“You *can* trade votes. But it’s not a daily procedure, vote trading, It’s normally when you have big issues at stake [that you trade votes]. It’s also commonly used when you have nationals applying for top jobs in EU institutions, then you trade votes. But it’s not an everyday thing” (Interview with Mertens Counselor, June 2005).

Moreover, in the discussion of coalition formations, member state representatives were quite clear that in COREPER, you deal with one dossier with one set of coalitions. And then when they move on in the agenda to the next point, it is as if a completely new negotiation begins. New coalitions exist on the new dossier, and the slate is “cleared” for the start of a new and separate discussion. Rather than making connections between dossiers, they are largely treated separately in COREPER.

## II. Linkage *within* Dossiers

The fact that explicit linkages across dossiers and issue areas is relatively uncommon in everyday EU decision-making does *not* mean, however, that issue linkage does not play a central role in negotiations among the EU member states. While interview evidence with representatives in COREPER shows that vote-trading across dossiers is relatively uncommon, it also shows that trading *within* a dossier is extremely common in negotiations in COREPER.

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<sup>3</sup> This was only ever cited in interviews as a rumor. No real evidence in support of this claim was provided by those involved.

<sup>4</sup> For more on this see (Lewis 1998, 2000).

<sup>5</sup> This claim is based on 118 interviews conducted across a period of three years with participants and observers in negotiations in COREPER I and II.

In negotiations, you negotiate *within* the texts. ‘Well, I can give you this and this article, but you have to give me that and the other article. I can be flexible on this one, but I cannot be flexible on the other one.’ *This* is how it works in COREPER (Interview with DPR, May 2005).

In other words, it is not just the issue area of the dossier that matters, but the *content* of the proposal. It was not just the “Services Directive” that the member states negotiated over in the Council institutions, but a particular *set of issues* related to trade in services. Under the original Commission proposal, the states were negotiating over whether, and to what extent, the country of origin principle should govern trade in services across the EU member states. After the first reading decision of the European Parliament in early 2006 and the revised Commission proposal was presented in April 2006, the states were negotiating over whether to keep the new Freedom to Provide Services Principle (or to return to the country of origin principle) as well as over the delegation of powers to the Commission to “screen” national legislation for compliance with the Freedom to Provide Services principle after implementation of the directive.

In the negotiations on the REACH Directive (a directive for the “Regulation, Evaluation, and Authorisation of Chemicals), the member states were not just negotiating a “REACH Directive” as an entity, but a particular set of issues: whether to authorize chemicals based on the principle of substitution or of adequate control, whether industries must apply for authorization individually or whether they could register jointly for a given chemical, the creation of a central agency to oversee the implementation of the Directive and the powers to delegate to that agency, and so on.

Trade across the articles and smaller “issues” *within* a given dossier has important implications for the way that we study issue linkage in the EU. Often, scholars tend to look at issue linkage only in terms of the linkage of overarching issue areas – i.e., the linkage of trade to immigration. But very important types of linkages can occur by the linkage of certain types (and the non-linkage of other types) of smaller issues within a given proposal for agreement. It is therefore important for scholars to look at the content of proposals for agreement, and to understand how the linkage of different types of “smaller” issues within those proposals effects the negotiations among the EU member states. I discuss these issues in the remainder of the memo.

### III. Effects of Issue Linkage

The formal literature on issue linkage has shown that the linkage of certain types of issues – those characterized by “offsetting distributional patterns” (Tollison and Willett 1979) – foster the ability of states to reach an agreement, while the linkage of issues that lack such distributional patterns inhibit the reaching of an agreement (Tollison and Willett 1979; Sebenius 1983). In other words, if states are negotiating over issues that they weight differently in terms of the importance of those issues to their interests (and thus how much they care about “winning” on them), bargaining agreements are likely to arise. If they are not negotiating over these types of issues – i.e., if opposing states care very much about the *same* issue (or issues) – an agreement will not be reached.

Building on this, I argue that not only will the reaching of agreements be effected by the linkage of issues, but also the negotiation *behavior* of states. When states are bargaining over issues that

they weight differently in terms of the importance of those issues to their interests (i.e., when they are bargaining over “offsetting” issues), they are likely to *exchange concessions* across those issues. States will offer concessions on the issues that are relatively unimportant to their own interests, but that are important to the interests of the other states; they will thus receive concessions on the issues that are important to their interests. It is this type of behavior, I argue, that serves to bring about a bargaining agreement. When states are bargaining over issues where they care very much about the *same* issue (or issues), states are not likely to offer concessions, but rather to *demand concessions* from other states. It is this type of behavior, I argue, that leads to an inability to reach a bargaining agreement.

These arguments are neutral about what is meant by an “issue.” This analysis could be applied to issue areas, but it also could be applied to smaller issues within a given negotiation. It depends on how the states themselves view the negotiation, and the issues over which they are bargaining.

In the everyday EU decision-making process, where states focus on the “smaller” issues within a given dossier, this means that the *content* of the proposals for agreement can have important effects on the behavior of states within the negotiations that take place in the Council institutional structure, and thus on whether or not they will come to an agreement.

Take the negotiations on the Services Directive, for example. Under the original Commission proposal, opposing coalitions of states both cared very much about the issue of the country of origin principle. France, Sweden, and other countries with similar interests and backgrounds were highly opposed to having the country of origin principle govern trade in services across the EU. They feared that allowing “a service provider [to be] subject only to the law of the country in which he is established and [that] Member States may not restrict services from a provider established in another Member State” (2002/441 COM: 3-4) threatened the labor laws in their country. The UK, the Netherlands, Poland and other countries with similar interests and backgrounds were highly in favor of the country of origin principle. The benefits that they felt could be achieved by their workers' ability to freely export services to other states were quite significant, and they did not want to give that up. The behavior and outcome that resulted in the negotiations over this proposal consisted of demands for concessions, and an eventual stalemate. No agreement was reached among the member states on this proposal.

Compare this to the negotiations that took place over the revised Commission proposal. On the issues included in this revised proposal, France, Sweden, and their coalition placed most importance on the Freedom to Provide Services clause. They were unwilling to return to the country of origin principle in the interest of protecting their labor laws. The UK, Netherlands, Poland and their coalition placed a high degree of importance on the screening of national legislation for compliance. They felt that their interest in being able to export services to other member states could still be met through the implementation of screening procedure. In this phase of negotiations, an exchange of concessions characterized the member state interaction in the Council structure. The UK coalition “gave” and accepted the Freedom to Provide Services principle; the French coalition “gave” and agreed that the Commission would be delegated powers to “screen” national legislation for compliance with the directive and issue sanctions for noncompliance. This exchange of concessions resulted in an agreement being reached.

State behavior and the outcomes that resulted in the Council negotiations were closely tied to the ability to trade across the issues included the directive, and the fact that the costs of offering concessions on some issues could be outweighed by the benefits of “winning” on others. There was clearly more going on here, but the interview evidence supports this claim that the set of issues in the proposal (in addition to other factors) did exert an important impact on the strategic decisions of the member states and their willingness to offer concessions.

#### IV. Implications for the EU

This has important implications for the study of EU decision-making. Scholars should take more care to incorporate the content of proposals for agreement into their analyses and to pay careful attention to the *way* that they do so. It is not just the issue area in which a dossier falls that matters – the Services Directive is more than just a “Services Directive.” It incorporates a set of smaller issues that need to be considered. Moreover, the issues included in a proposal are not dealt with independently in the negotiation process, and therefore should not be analyzed as such. Rather, the *relationship* between the issues laid out in a proposal for agreement and the *relationship* between those issues and the interests of the member states can have important effects on the EU decision-making process.

Future work should seek to better understand how the linkage of particular issues within a proposal affects EU decision-making, both in the negotiations among the member states, as well as in the decision-making process as a *whole* (i.e., the interactions among the Council and Parliament and Commission). Studies should not only theorize about these effects, but also test them empirically through an analysis of actual decision-making processes.

This issue linkage effect not only has implications for future analyses of EU decision-making, but has important *policy* implications, as well. If the set of issues included in a proposal for agreement affects the negotiation process among states (and institutions), this means that the agenda-setting role of the Commission in drafting these proposals goes beyond a simple ability to put specific issues on the table (or keep them off). If the Commission acts strategically and analyzes the interests of the member states, it can affect the outcome of the negotiation by making it more or less likely that the states will be able to reach an agreement by linking together particular sets of issues in the proposal. Even more importantly, it can also shape the outcome of the negotiation by anticipating how coalitions of states are likely to engage in trade-offs across the issues it lays out in its proposal. Member states that lobby the Commission in the proposal-writing stage can similarly act in a strategic way.

Institutional changes that have delegated proposal-drafting power to the Commission in an increasing number of issue areas have therefore also potentially delegated power to the Commission to shape the outcome of negotiations in those areas as well. Has the Commission used its proposal-drafting power in this way? If not, why not? What other factors come into play here? These types of interesting questions can be raised by extending an issue linkage analysis to EU decision-making in the way specified here. Doing so, these types of analyses might be able to highlight interesting relationships between the internal politics of the

Commission that go into the proposal-drafting process, and the (possibly unanticipated) effects that proposals produced by those internal struggles might have on the negotiations that follow.

Overall, analyzing the impact of the relationship between issues linked together in proposals for agreement not only has implications for our understanding of EU decision-making processes, but it also has important policy implications for the strategic choices made in the proposal-drafting stage. Thinking about issue linkage in this more narrow sense and analyzing the specific issues laid out in a proposal is therefore an important path for future research in EU decision-making. It also raises many interesting questions for future work to address.

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