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978-0-521-86452-7 - Leadership and Negotiation in the European Union

Jonas Tallberg

Excerpt

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1 Introduction

Multilateral negotiations today constitute the most prominent method by which states address joint problems, resolve disagreements, and formulate common norms in world politics. Yet international relations (IR) scholars still grapple with the most fundamental questions raised by this practice, pertaining to issues of efficiency and distribution in international cooperation. Why do some negotiations lead to agreements that exploit all possible joint gains, whereas others collapse or produce sub-optimal bargains? Why are some states more successful than others in securing benefits from multilateral agreements?

This book is about the influence wielded by the formal leaders of multilateral negotiations – those state or supranational representatives that chair and direct negotiations in the major decision bodies of international organizations and conferences. The book offers a systematic theoretical and empirical exploration of formal leadership in multilateral bargaining. It conceives of the chairmanship as a power platform in international politics, and argues that actors in control of this office enjoy unique opportunities to shape the outcomes of multilateral negotiations. Formal leaders fulfill functions that make it more likely for negotiations to succeed and possess privileged resources that make it possible to steer negotiations toward the agreements they most prefer.

In the book, I present and test a theory of formal leadership that synthesizes elements of rational choice institutionalism and general bargaining theory. The theory develops a coherent argument for the origin of the chairmanship as an institutional form in decision-making, for the power resources of negotiation chairs, and for the effects of formal leadership on the outcomes of multilateral bargaining. It positions negotiation chairs in the strategic context of multilateral negotiations, where politics is shaped by interests, information, and institutions. The theory generates predictions about when, why, and how negotiation chairs wield influence over the efficiency and distributional outcomes of multilateral negotiations.

I assess the explanatory power of this theory through an in-depth study of negotiations in the European Union (EU), as well as a review

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of comparative evidence from regime negotiations on security, trade, and the environment. In the EU, the Presidency office has rotated between the member states of the organization for nearly five decades. I show that the powers of the Presidency historically have evolved in response to functional pressures in EU cooperation and a continuous search by European governments for efficient forms of intergovernmental decision-making. On the basis of six carefully selected case studies, I further demonstrate that the Presidency constitutes a power platform in EU bargaining, permitting governments at the helm to raise the efficiency of negotiations and steer outcomes in their own favor.

The question of whether the European experience is unique or can be generalized to other areas of international cooperation is confronted through a review of negotiations in three institutional settings that vary in the organizational design of the chairmanship: the Conference on Security and Cooperation in Europe (CSCE) and its successor, the Organization for Security and Cooperation in Europe (OSCE); the General Agreement on Tariffs and Trade (GATT) and its successor, the World Trade Organization (WTO); and United Nations (UN) conferences on the law of the sea, the ozone layer, and climate change. The comparative record suggests that the influence of the Presidency in EU negotiations is not an isolated occurrence, but an expression of a general phenomenon in world politics – the power of the chair.

For most policy-makers and everyday negotiators, the argument that “the chair matters” is uncontroversial. Regardless of whether they themselves have directed international negotiations, or experienced the effects of other actors’ access to this power platform, they tend to recognize the political implications of the chairmanship. In fact, most people who have ever served as chairmen would probably admit that this position is accompanied by a capacity to affect decision-making through resources that other participants do not enjoy.

However, political scientists have been slow to acknowledge the power of the chair and so far are unable to provide a theoretically grounded explanation of when, why, and how formal leadership matters. The main explanation is the widespread and convenient assumption in most bargaining analysis that the parties are functionally and formally equivalent – a product of this sub-field’s heritage from game theory. Negotiation is seen as a process between actors that enjoy the same formal status, but differ in terms of power capabilities, preferences, information, ideas, and alternatives to negotiated agreements.¹ Where existing

¹ For overviews of the literature on international negotiation, see Zartman 1994b; Hampson with Hart 1995, ch. 1; Hopmann 1996; Starkey, Boyer, and Wilkenfeld 1999; Jönsson 2002; Kremenjuk 2002.

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literature stresses the importance of political leadership or entrepreneurship, this is typically conceptualized as informal influence, anchored in structural power, entrepreneurial capacity, or intellectual capital – not in formal power positions.² Yet, as I demonstrate in this book, what distinguishes negotiation chairs from other actors in multilateral bargaining is the formal control over the nature of the game, which offers unique opportunities for influence over the outcomes of negotiations.

The argument in this book carries implications for ongoing debates in political science on negotiation and decision-making. At a general theoretical level, it challenges accounts that depict negotiations as a naturally efficient process, explains why chairmen frequently emerge as driving political forces, calls for a revised understanding of bargaining power, and offers a theory of formal leadership that can be extended to political decision-making in general. At the specific level of EU politics, it explains how the Presidency enables national governments to reach efficient agreements without recourse to mediation by supranational institutions, why EU accords often are tilted toward the interests of the state currently at the helm, and why the rotating Presidency has been subject to a reform debate in recent years.

The theory: formal leadership in multilateral negotiations

In a nutshell, the theory presented in this book suggests that multilateral bargaining is subject to collective-action problems that lead states to delegate functions of agenda management, brokerage, and representation to the chairmanship of international organizations and multilateral conferences. With these functions follow a set of power resources: asymmetrical access to information and asymmetrical control over procedure. By executing the functions they have been delegated, and by wielding these resources to collective benefit, formal leaders help states negotiate more efficiently. Yet the very same informational and procedural advantages may be exploited for private gain as well. While constrained by formal institutional rules, opportunistic chairs seek to promote the negotiation outcomes most conformant with their own interests, with implications for the distribution of gains in international cooperation.

This logic of this theory, developed at length in Chapter 2, can be conveniently summarized as two straightforward arguments about

² Sandholtz and Zysman 1989; O. Young 1991, 1999a; Underdal 1994; Hampson with Hart 1995; Malnes 1995; Moravcsik 1999a; Sjöstedt 1999. For a recent contribution that shares this book's ambition to theorize the influence of formal leaders, see Odell 2005.

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the demand for, and supply of, formal leadership. The core of the first argument is a functionalist claim about the origin of the chairmanship as an institutional form. At the most general level, it purports to explain why the chairmanship today is a standard feature in political decision-making bodies, whether local, national, or international. In the international context, it seeks to explain why national governments, sensitive to challenges of their sovereign authority, agree to create and empower formal institutions of process control in multilateral decision bodies. The theory provides a functionalist answer to this puzzle, suggesting that the rationale of the chairmanship as an institutional form is its capacity to mitigate collective-action problems in decentralized bargaining.

More specifically, this argument points to three forms of collective-action problems that risk preventing efficient exchange. Agenda failure refers to the absence of progress in negotiations because of shifting, overcrowded, or underdeveloped agendas. Negotiation failure refers to deadlocks and breakdowns in bargaining that are caused by the parties' inability to identify the underlying zone of agreement, because of stratagems that conceal or distort their true preferences. Finally, representation failure refers to restrictions in cooperation that arise from the absence of a formula for how the group of negotiating states should be represented *vis-à-vis* third parties.

The theory further posits that states, in order to escape or reduce these collective-action problems, delegate powers of process control to the chairmanship of international organizations and multilateral conferences. These process powers comprise functions of agenda management, brokerage, and representation, which answer directly to the functional demands in decentralized bargaining. As agenda manager, the chair is expected to delimit and structure the agenda, thus making it negotiable. As broker, the chair is expected to facilitate agreement by engineering compromise proposals around which bargaining can converge. As representative, the chair is expected to act as the external agent of the collective negotiation group, ensuring convergence on common positions *vis-à-vis* third parties.

The second argument speaks to the effects of empowering chairmanship offices in international cooperation. It seeks to explain why the chairmanship, once vested with powers of process control, becomes a political platform with implications for the efficiency and distribution of gains in multilateral bargaining. The theory specifies the informational and procedural resources of negotiation chairs, as well as the formal constraints under which they operate. Furthermore, it explains why and how the particular design of the chairmanship affects possibilities, constraints, and dynamics in the supply of formal leadership.

The theory suggests that the influence of negotiation chairs is derived from informational and procedural power resources integral to the office and the functions they have been delegated. By virtue of their position, formal leaders obtain private information about the parties' resistance points, acquire an unusual expertise in the dossiers under negotiation, and develop a superior command of formal negotiation procedure. Furthermore, negotiation chairs enjoy asymmetrical control over the procedural parameters of multilateral negotiations, ranging from general decisions on the sequence, frequency, and method of negotiation, to specific decisions on the agenda, conduct, and results of individual negotiation sessions.

By drawing on these power resources, negotiation chairs can help states overcome bargaining impediments that prevent the realization of collective gains. Privileged access to information enables formal leaders to construct viable compromises. Privileged control over procedure permits formal leaders to structure the negotiation process and individual sessions in ways favorable to agreement. But the very same power resources may be exploited to pursue private gains as well. The theory posits that opportunistic chairs will seek to exploit this exclusive preference information and procedural control to promote agreements whose distributional implications they privately favor. The influence of negotiation chairs over bargaining outcomes therefore comprises both efficiency and distribution.

However, formal leaders are not free to impose their will on other parties in multilateral negotiations. The theory conceives of the formal institutional environment as an intervening factor that conditions when, where, and how negotiation chairs exert influence over outcomes. Agenda-setting rules influence the capacity of negotiation chairs to promote or block proposals. Decision rules shape the ease with which formal leaders can favor proposals that satisfy the requirements of an efficient agreement and meet the partisan interests of the chair. The institutional design of the chairmanship – rotation between states, election of one state's representative, or appointment of a supranational official – shapes the control mechanisms states put in place and the resultant room for maneuver of negotiation chairs.

To summarize: this theory offers testable propositions about the demand for, and supply of, formal leadership in multilateral negotiations. Privileging interests, information, and institutions as explanatory variables, it generates specific hypotheses about the conditions under which states are likely to delegate powers to formal leaders, and the conditions under which formal leaders are likely to influence outcomes in multilateral bargaining.

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The evidence: negotiations in the European Union and beyond

The empirical heartland of this book is negotiations in the European Union. Since the late 1950s, the Presidency of the EU has rotated between the member states on a six-month basis. The government which holds the Presidency is responsible for the chairmanship of the working groups, committees, and ministerial meetings in the Council of Ministers – the EU's central decision forum – as well as the summits of heads of state and government in the European Council.³

The research design

The influence of the Presidency in EU negotiations is the subject of a limited body of literature that is predominantly atheoretical and descriptive in orientation, and rarely attempts to communicate with general theoretical debates on negotiation and decision-making.⁴ Slightly simplified, studies of the Presidency split into three major categories. The first category consists of descriptions of the functioning of the Presidency, often in the context of general accounts of the Council and EU decision-making.⁵ The second consists of studies of individual Presidencies, where the main ambition is to evaluate the performance of a member state during its period at the helm.⁶ The third category

³ For overviews of the structure and functioning of the Council, see Wallace 2002; Westlake and Galloway with Digneffe 2004; Hayes-Renshaw and Wallace 2006. For a full listing of Presidencies since 1958, see Appendix. The EU Constitutional Treaty of 2004 foresees changes to the organization of the chairmanship in select intergovernmental bodies. At present, it appears unlikely that this treaty will be ratified by all member states. However, in the concluding chapter, I explain how the theory advanced in this book sheds important light on the sources and potential effects of the proposed reforms.

⁴ The substantive literature on intergovernmental and inter-institutional bargaining in the EU tends to draw on general theories of negotiation and decision-making, but typically makes few attempts to integrate the Presidency into these theoretical models. For a similar assessment, see Schmidt 2001. On intergovernmental bargaining at constitutional conferences, see Laursen and Vanhoonacker 1992; Edwards and Pijpers 1997; Moravcsik 1998; Moravcsik and Nicolaïdis 1999; Laursen 2002; Beach 2005. On inter-institutional legislative bargaining, see Mesquita and Stokman 1994; Steunenberg 1994; Crombez 1996; Golub 1999; Tsebelis and Garrett 2000; Thomson, Stokman, Achen, and König 2006.

⁵ Edwards and Wallace 1977; Wallace 1985; Bassompierre 1988; Kirchner 1992; Wurzel 1996; Schout 1998; Sherrington 2000, 41–44, 172–175; Westlake and Galloway with Digneffe 2004, ch. 18; Hayes-Renshaw and Wallace 2006, ch. 5.

⁶ E.g., O Nuallain 1985; Kirchner and Tsagkari 1993; Ludlow 1998; Martikainen and Tiilikainen 2000; Maurer 2000; Lequesne 2001; Tallberg 2001; *Cooperation and Conflict* 2003.

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is composed of the limited number of works that draw on general political science theories of agenda setting, negotiation, and mediation, in order to explain the role and influence of the Presidency in EU decision-making.⁷

With few exceptions, this literature is highly skeptical about Presidencies' capacity to steer outcomes in their own favor. This perspective is frequently summarized in a statement by Jean-Louis Dewost, former head of the Council's Legal Service, who describes the Presidency as a "*responsabilité sans pouvoir*" – a responsibility without power.⁸ If we disaggregate this influential position into substantive claims about influence, three arguments are particularly prominent: (1) the chairmanship has not been conferred any formal powers of initiative and Presidencies therefore cannot set the EU's policy agenda; (2) Presidencies are constrained by existing policy agendas and by external or unexpected events that require their attention; and (3) the influential norm of the neutral Presidency forces governments at the helm to eschew the pursuit of national interests.

The research design of this book breaks with that of existing research on the EU Presidency. Instead of general descriptions of the office or impressionistic evaluations of governments' performance in the chair, I provide a detailed historical tracing of the development of the Presidency, as well as six case studies of Presidency influence in EU negotiations. The empirical examination is specifically designed to test the theory of formal leadership, and does not attempt to explain, for instance, variation between states in the conduct of the Presidency.⁹ The case study approach allows for detailed process tracing, involving a reconstruction of the negotiations, a tracking of causal mechanisms, and an evaluation of the influence of the Presidency.¹⁰ Demonstrating influence requires more than observing that a Presidency government was active and negotiations eventually were successful – process tracing makes such a qualified evaluation possible. Furthermore, I engage in counterfactual analysis in order to assess whether a particular Presidency's contribution was original or redundant.¹¹ In all cases,

⁷ Metcalfe 1998; Svensson 2000; Elgström 2003a; Kollman 2003; Tallberg 2003a, 2004; Bengtsson, Elgström, and Tallberg 2004.

⁸ Dewost 1984, 31.

⁹ This is a common theme in existing literature, which traditionally has emphasized national political traits, such as economic and administrative capabilities, attitude toward European integration, and domestic political context. For a recent comparative exploration of EU Presidencies, see Elgström 2003b.

¹⁰ George and McKeown 1985; King, Keohane, and Verba 1994; George and Bennett 2005.

¹¹ Fearon 1991; Tetlock and Belkin 1996.

Table 1.1. *The cases*

| Agenda management | Brokerage | Representation |
|--|---|--|
| German Presidency and car recycling directive | German Presidency and Agenda 2000 reforms | Swedish Presidency and EU transparency rules |
| Finnish Presidency and Northern Dimension initiative | French Presidency and IGC 2000 reforms | Danish Presidency and EU enlargement talks |

I evaluate the likelihood that the negotiations would have resulted in the same outcome, had another member state, with different preferences, been in control of the Presidency. The empirical evidence presented in the study is based on primary documents, secondary sources, and interviews with representatives of EU governments and institutions.

The cases, summarized in Table 1.1, are drawn from the German, Finnish, French, Swedish, and Danish Presidencies in the time period 1999–2002, and cover the issue areas of enlargement, institutional reform, environmental policy, budgetary policy, and foreign policy. The selection is based on three considerations. First, I have systematically selected cases where the Presidency government holds preferences at one end of the spectrum, which makes it relatively easier to empirically trace and demonstrate influence over distributional outcomes, compared to cases where Presidencies hold central preferences.¹² Moreover, it is relatively more difficult for Presidencies with extreme preferences to achieve their most preferred outcome, which grants the cases I have selected least-likely qualities. Naturally, this selection criterion also means that the cases chosen exclusively involve dossiers where the Presidencies in question possess distinct and known preferences, rather than diffuse, unknown, or even non-existing preferences. Second, I have chosen cases to ensure variation in formal agenda-setting and decision rules, identified as important intervening variables in the theory of

¹² In cases where Presidencies hold central preferences, their favored agreement is not likely to differ substantially from the expected equilibrium agreement. Whereas Presidencies might mobilize their privileged resources to make sure that the outcome stays close to the expected equilibrium, these efforts will appear as consensus building around the median preference. Where Presidencies, by contrast, hold extreme preferences, we would expect to see active exploitation of the chair’s informational and procedural resources for purposes of shifting outcomes away from the expected equilibrium and toward their own ideal point, that is, from the center and toward the end of the spectrum of preferences.

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formal leadership. Third, I have selected cases from a broad range of issue areas, including both high- and low-profile dossiers, as well as multiple Presidencies, involving both large and small member states, in order to control for political salience and state capability, which existing literature frequently points to as determinants of Presidency influence. The implications of these selection criteria for the capacity to generalize the findings are discussed in the concluding chapter of the book.

The findings

The central empirical findings of the book can be summarized in three arguments about the historical development of the Presidency office, the influence of Presidency governments in EU negotiations, and the patterns of formal leadership in international bargaining at large.

First, the historical evidence presented in Chapter 4 strongly suggests that the Presidency office has evolved in response to functional demands in EU negotiations, stemming from experienced or anticipated problems of agenda failure, negotiation failure, and representation failure. When first established in 1957, the Presidency possessed only weak procedural responsibilities. Its subsequent evolution into an office with substantial functions in agenda management, brokerage, and representation has gone hand in hand with developments in the EU's internal decision-making environment and external political ambitions. EU governments have continuously adjusted and extended the functions of the Presidency in search of more efficient methods of intergovernmental cooperation.

The office of the Presidency was delegated agenda-management functions in response to a decreasing capacity of the European Commission to dictate the European Community's (EC) substantive agenda, and a growing fragmentation in Council decision-making that made agendas increasingly unwieldy and uncoordinated. Next to the creation of the European Council in 1974, the strengthening of the Presidency constituted member states' primary solution for ensuring coordination of the political agenda across decision-making bodies. One central component of this strategy was the introduction in the 1980s of the Presidency program, whereby governments at the helm assign priority to the issues on the political agenda and structure meeting agendas to this end.

The engagement of the Presidency as broker was the product of a growing complexity in EC decision-making that rendered it more difficult to identify potential agreements, and of institutional reforms that created a demand for more active mediation. Whereas the Commission had taken on brokerage responsibilities in the early years of European integration, the Presidency developed into member

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governments' preferred architect of compromise from the late 1960s and onwards. To facilitate brokerage, the Presidency was equipped with specific mediation instruments, notably, the practice of bilateral confessions, through which member states offer the Presidency privileged information about national bottom lines.

Yet nowhere are the functional pressures behind the development of the Presidency's powers as prominent as in the area of representation. The Presidency's function as an internal representative in inter-institutional legislative negotiations developed in direct response to the need for a Council negotiator *vis-à-vis* the European Parliament. By the same token, the Presidency constituted member governments' preferred choice as external representative when the EC, from the early 1970s and onwards, sought to present a unified foreign policy front *vis-à-vis* the rest of the world.

The second important finding is comprehensive empirical evidence in favor of the Presidency office as a platform for political influence in European cooperation. The six case studies in Chapters 4 to 6 demonstrate that Presidency governments raise the efficiency of EU bargaining, while simultaneously steering negotiations in their own favor. The functions performed by the Presidency enable member states to negotiate on the basis of delimited agendas, uncover underlying zones of agreement, and present coordinated positions *vis-à-vis* third parties. Yet, regardless of structural power capabilities, EU governments simultaneously exploit the chairmanship for national political purposes, wielding its privileged power resources for private gain.

The management of the agenda permits Presidencies to assign priority to competing political concerns. The cases drawn from the Finnish and German Presidencies in 1999 demonstrate that Presidencies' influence over the agenda both takes the shape of traditional agenda setting and includes forms of non-decision-making. Presidencies call attention to prioritized concerns by including them in the official Presidency program, scheduling informal meetings devoted to these issues, and placing proposals on the formal agenda, directly or indirectly. Presidencies downplay nationally sensitive issues by refusing to recognize their political salience, assigning limited negotiation time, or even dropping dossiers from formal decision agendas.

The engineering of intergovernmental bargains permits Presidencies to select among multiple potential agreements and steer negotiations toward outcomes they privately prefer. The cases drawn from the German and French Presidencies in 1999 and 2000 illustrate that the institutional practices specifically developed to aid the Presidency serve double purposes. Presidencies use privileged information obtained