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## **More than you bargained for? The effect of changing from Unanimous decision-making to Qualified Majority Voting in the Council of the European Union**

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# MORE THAN YOU BARGAINED FOR?

The effect of changing from Unanimous decision-making to Qualified Majority Voting in the Council of the European Union

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## Executive summary

Within the Council of the European Union, Qualified Majority Voting is being implemented in a growing number of policy areas. This thesis tries to answer the question “*What is the effect of substituting unanimity with qualified majority voting on behaviour of member states’ representatives in meetings of the Council of the European Union?*”. To answer this question, one case is selected, the council configuration of Agriculture and Fisheries. Through conducting interviews with member states’ representatives active in this policy area, a general overview of the negotiations there is constructed.

It is found that shifting the decision rule results in more rational behaviour during the negotiations. Actors showcase more bargaining behaviour when the decision rule is Qualified Majority Voting, and more arguing when it is unanimous decision making. It was not possible to accurately pinpoint what type of negotiating was more common at a certain moment in the negotiations due to the inability to access certain data.

## Foreword

First and foremost, I would very much like to thank my supervisor, professor de Rooter, for his endless patience. This thesis took longer than expected, but during the whole period Rik answered all my questions and often so quickly that I immediately could continue. Without his guidance, I would have been lost in the forest of academic papers and case studies and this thesis would have never seen the light of day.

Besides him, I would like to thank everybody that supported me while writing this thesis. Especially my girlfriend Isa, who often fell victim to my endless rants about matters of European integration or voting rules. I thank my brother for the extensive spelling and grammar check he has done, while he was busy excavating on the Dominican Republic.

Now, at the time of writing this foreword, I am sitting in my apartment, close to the Forum Romanum. While I could never dream of even coming close to the great orators that stood there, it is an inspiring surrounding. With finishing this thesis, I close one chapter of my life. The past months revolved around theorizing about European integration. In the coming chapter, I'll put the money where my mouth is and become part of it.

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*“Nella vita: chi non risica, non rosica”*

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## 1. Introduction

The European Union is facing a severe crisis at its border. It was long thought that trade and unilateralism would keep atrocities at bay and prevent another war on the European continent. This turned out not to be the case. The effects of this mistake resonate all over the Union, as food prices are soaring through the roof and sanctions are being instituted.

The war touches upon the topic of agriculture, as food security issues are back on the agenda. The policy area of agriculture was instituted long ago to combat this issue and has been subject to regulations. Decisions were mainly taken under unanimity in deciding on these laws and regulations. However, one of the founders of the European Community, Paul-Henri Spaak, stated that “*Unanimity formulae are the formulae of impotence.*” (Sieberson, 2010, p 933). Spaak saw unanimity as a ‘trap’ and urged member states (MS) “*to leave ancient notions of sovereignty behind and accept the principle of majority voting*” (Sieberson, 2010, p. 933). Scholars argue that the application of unanimity inhibits a flaw, namely that it blocks the achievement of results and leads to unsatisfactory outcomes. What could be done to combat unsatisfactory results is changing the decision rule, which has happened in recent years. The treaty of Lisbon declares that all decisions are taken by Qualified Majority, except when treaties provide otherwise. Although this might produce better and more efficient decision-making, the change can have far-reaching implications on other processes, such as the negotiations with the EU decision-making organs. An example could be that actors may start to behave differently since the safety of the veto power is lost. But how will their behaviour change? Moreover, what are the implications for actors participating in these negotiations? The intention of this thesis is then to answer the following research question:

*“What is the effect of substituting unanimity with qualified majority voting on behaviour of member states’ representatives in meetings of the Council of the European Union?”*

As this thesis draws inspiration from the studies of Naruin (2009) and Warntjen (2010), the same pool of actors who negotiate on their country's behalf, or member states’ representatives, is examined. Hence the same conceptualization is used. With member states’ representatives is meant “*the Council of the European Union, civil servants meeting in working groups or the group of permanent representatives (COREPER)*” (Warntjen, 2010). Since this study focuses on the policy field of AGRIFISH, representatives from the Special Committee on Agriculture (SCA) are included in this pool of actors.

From a deductive approach, expectations will be distilled from the theory. In summary, the three expectations are that firstly: *changing the decision rule from unanimity to Qualified Majority Voting has an effect on the behaviour of member states’ representatives during negotiations.* Secondly: *when a decision is taken under QMV, bargaining tends to be the dominant negotiation method present during the negotiations, while arguing is more present under the unanimity rule.* Thirdly: *the sequence of*

*negotiations of a decision taken under QMV will see bargaining tactics in an earlier stage in the negotiations than a decision taken under the unanimity rule.* These concepts outlined in the research question and expectations will now be elaborated upon briefly and more in-depth in the theoretical framework.

### 1.1. Core concepts

The Council of the European Union can both be characterized as a supranational network and an intergovernmental forum for negotiation (Warntjen, 2010). This duality makes it an interesting topic of study. Theory shows that Liberal Intergovernmentalism and Neo-Functionalism are two academic schools that try to explain European Integration and the path that led to where it is now. The former has an intergovernmental focus, while the latter is more supranational. As was said earlier, the Council of the EU is a combination of both. Therefore the two must be understood thoroughly to understand the Council's functioning. An essential aspect of that is the decision-making procedure, the sequence of negotiations, and the decision-rule within it.

The choice on which decision-rule is implemented often depends on whether the organization is designed as an intergovernmental or supranational one. Within the decision-making procedure, arguing and bargaining are two modes of interaction in which political actors, in this case member states' representatives, try to reach an agreement (Naurin, 2009). Whether the actors argue or bargain can depend on both the decision-rule and in which stage of the negotiations the actors are.

Domestic preferences determine to a significant extent states their preferences (Moravcsik, 2020). Not every member state prefers supranationalism, and not every member state intergovernmentalism (Risse, 2005). It is essential to understand how the EU would evolve if it were governed purely by supranationalists and how it would from an intergovernmentalist's perspective. That is why in the theoretical framework, two academic schools that explain both are brought forth to understand what both mean and what they desire substantively. The reality is, however, black nor white. Both schools will be pitted against each other and explain why MS prefer intergovernmental or supranational solutions (Risse, 2005).

In order to safeguard the autonomy of member states, the decision-making organs are structured and designed in specific ways. All aspects, from pooling or delegating authority to the power of the chair with regard to the agenda-setting ability, will be discussed to understand their effects on the decision-making process and possible implications for the research question.

Whether to call the European Union a supranational or intergovernmental organization is a balancing act (Sieberson, 2010). It may be a semantic discussion, but supranationalism or intergovernmentalism determines to a large extent the influence an individual member states can exert. The core of this discussion revolves around majority voting (Sieberson, 2010). National sovereignty is sacrificed if it is agreed to. States may need to comply with legislation it does not agree with. In the



words of Sieberson: “*Any analysis of qualified majority voting must take place in the context of an ongoing discussion as to what type of entity the European Union is and what it should be.*” (Sieberson, 2010, p. 923).

In the treaty of Lisbon, a qualified majority (QM) is, as of the 1<sup>st</sup> of November 2014, defined as “*at least 55 % of the members of the Council, comprising at least fifteen of them and representing Member states comprising at least 65 % of the population of the Union.*” (European Union, 2007, p. c306/18). All decisions will be taken by qualified majority, except when treaties provide otherwise.

## 1.2. Scientific relevance

Naurin (2009) states that: “*The fact that decision making within the European Union is conducted under different procedural requirements depending on the policy area gives an unusual opportunity to test the effects of varying institutional conditions on the presence of arguing and bargaining.*” (2009, p. 32). Because of the treaty of Lisbon, even within a single policy-area, the decision-rule can be different, depending on the topic: “*If a member of the Council declares that, for vital and stated reasons of national policy, it intends to oppose the adoption of a decision to be taken by qualified majority, a vote shall not be taken.*” (European Union, 2012, p. c326/34). Naurin (2009) did in his study not control for the variable policy area and this is where the added value of this thesis lies. It isolates the variation in institutional conditions on the decision-rule, while keeping the policy area a constant. The work of Naurin (2009) thus functions as a basis. This thesis will focus more on the differences between the decision-rule and how it affects the behaviour of actors during the negotiations. This isolation allows to better analyse the effect of substituting the unanimity rule with a Qualified Majority one. Different studies, such as Warntjen (2010) and Niemann (2004), complement Naurin’s work and guide the analysis while Beach’s 2017 paper on process tracing is used as the method to analyse the interviews. The link between Naurin and Warntjen is especially strong since they both create a framework for the different kinds of arguing and bargaining. This thesis will try to merge the two to come to a new framework for the different types of negotiating. This new framework identifies five different modes of negotiating and ways of identifying them. Interviews will be conducted with actors who participate in the negotiations on the policy field of agriculture at various stages to construct a general overview of these negotiations. Unstructured interviews will guide them along different topics and control questions, after which questions are asked about the behaviour of other actors during negotiations under the Unanimity rule and the Qualified Majority rule.

## 1.3. Societal relevance

Negotiations preceding legislative decisions concerning the European Union are often long and exhausting processes that take place in the Council of the European Union (Hosli, 1996). The Council of the EU, also known as ‘the Council’, consists of government ministers from every Member states

(Europa.eu, 2020). They meet to coordinate policies, adopt, amend, and discuss laws. The ministers have the mandate of their respective MS to act in their nation's best interest and commit them to agreed-upon actions. The Council has ten configurations, depending on the issues that are under discussion. For each of these configurations, there are preparatory bodies in which policy is coordinated, discussed and agreed upon before a formal decision is taken in the Council. Many contextual and influencing variables were kept the same by interviewing actors who only participate within the council configuration "Agriculture and Fisheries"

In the upcoming years, the EU probably has to make significant decisions on topics such as the energy transition, climate and the European recovery fund. Previously, such decisions have been taken under the unanimity rule, while it is now possible to do so under a Qualified Majority. That is where the societal relevance lies. Which direction will the Union take now that countries can be subject to majority rule? Will they dig trenches and refuse to give an inch during the negotiations? Will every decision take forever to conclude now that MS only want to bargain instead of argue?

It is found that actors start to behave more rational under Qualified Majority Voting (QMV). They look at where coalitions are forming or if it is possible to create a blocking minority. Bargaining tends to be more present than arguing as, through the established framework, this form and its sub-categories are identified more often than arguing tactics. It was not possible to provide an adequate sequential timeline to compare negotiations and make scientific statements about bargaining and arguing in the sequence of negotiations. Several other factors also appear to be influencing the negotiations, such as the fact that a decision can be binding in its implementation. However, as that is not the primary goal of this paper to analyse, a different study should look into that.

#### 1.4. Outline of the thesis

In the next chapter, a theoretical framework is established which guides the analysis and indicates which factors and concepts are essential to understand before conducting an analysis. At the end of this chapter, three expectations are gathered, which will be answered during the analysis. The following chapter is the methodology. This chapter will talk about the case selection and how participants were selected. Interviews were held to gather representatives' perceptions on the differences between negotiating under the two decision rules. The concepts from the theory are operationalized in this chapter. The pitfalls and limitations of this research design are also mentioned. Finally, the research strategy is elaborated upon. The program Atlas.ti will be used. Transcripts are made of the interviews. These will be read several times, and labels will be applied to the evidence. The chapter concerning the results will review each expectation individually, each time ending with a brief answer. The final chapter is that of the conclusion and further recommendations.

## 2. Theoretical framework

The research question “*What is the effect of substituting unanimity with qualified majority voting on behaviour of member states’ representatives in meetings of the Council of the European Union?*” entails several concepts which require clarification. The following chapter will dive into the literature to illuminate them. First off, *the Council of the European Union*. How did the authority to make collective decisions on the EU level come to be? Why did states see a benefit in collaboration and choose to integrate? Moreover, since the initial step, how has it evolved, and why has it done so? Understanding these topics will form the basis for our analysis, as the shift from unanimity towards QMV is a shift from intergovernmentalism to supranationalism. The academic debate will provide the answers by explaining two different schools of thought within integration theory.

Next up are the *negotiations*. The different integration theories mentioned in the section before find resonance in negotiation theory, which acts as a bridge between the abstract discussion on integration and the concrete analysis of negotiations. Then the question arises: what are negotiations, and what forms can they take? If there are different forms, what do they look like, in which aspects do they differ, and what are they affected by? Elaborating on these forms makes them identifiable and able to differentiate between during the data analysis.

Institutional factors that influence negotiations are mentioned in the literature during the theoretical analysis of this process. As these influences affect the research question, they too will be elaborated on in the following sections. During this section, the pivot is made toward concrete aspects of the Council, such as the presidency and its role in the decision-making procedure. Other institutional factors, such as the authoritative design of the Council, are also debated.

Finally, *unanimity* and *Qualified Majority Voting* will be discussed. These are two different forms of decision rules, which both are applied within the decision-making procedure in the Council. While reading the theory, expectations will be drawn up, which will guide the analysis. Therefore a deductive approach will be deployed. After the theoretical framework is set apart, the chapter on the methodology will follow. After elaborating on the case selection, method and operationalization, it is time for the analysis. During the analysis, it is explained how the data was interpreted. The chapter on the results will confirm or disprove the expectations. The final chapter is the conclusion, which will answer the research question and recommendations.

### 2.1. Neo-Functionalism

There are two leading schools to be distinguished in the academic world that dominate the integration debate. This section starts with analysing the first school: Neo-functionalism (NF). It is followed by a study of the opposing integration theory: Liberal-Intergovernmentalism (LI). The sub-chapter closes with a comparison between the two. These two schools are discussed because it is crucial to understand why actors negotiate with each other and why this is done on the European level. Knowing with which

goals actors engage in the supranational arena is also essential. Do these goals resonate in negotiation theory, and what can thus be expected to be noticed during the negotiations?

The first school of thought, Neo-Functionalism, states that rule-making authority is transferred from the national governments to supranational organizations (Sandholtz & Sweet, 2013). Ernst B. Haas is one of the founding fathers of integration theory and thought that the shift of loyalties from the national level towards the supranational level could be done without giving up on one's primary identity (Risse, 2005). A collective identity is formed when a group of people identifies similarities among themselves and accept these, which causes them to feel solidarity toward each other (Brubaker & Cooper, 2000). The national identity is still the primary identity for many inhabitants of the EU. However, not the people that first and foremost consider themselves European are the force behind the integration process, but national groups that see a benefit in turning towards the supranational to realise their particular interests are (Risse, 2005). Hooghe & Marks confirmed this in 2019 when they identified international politics as "*the interplay of societal actors.*" (Hooghe & Marks, 2019, p. 1114). "*The most important feature of the global development policy environment is the growing importance of problems that can only be solved by collective action.*" (Bodenstein, Faust & Furness, 2017, p. 445). When these societal actors see more benefit in supranational than national institutions, their focus shifts towards that and integration follows.

Haas' 1958s seminal work identified that loyalties shift towards the supranational due to three key reasons (Risse, 2005). First, because the new centre of loyalty is recognized as valuable; second, because the newly instituted supranational organization forces the actors into acknowledging the organisation's formal authority and third, the shift happens as a side effect of other behavioural attitudes. These three key reasons align with the attitudes towards nationality identified by Fligstein, Polyakova and Sandholtz (2012). Haas was right in 1958 about identifying multiple identities among the civilians of the European Union, but his conceptualization changed (Risse, 2005). Not loyalty but authority and legitimacy were transferred to the supranational level. Both concepts will be discussed later in this chapter.

Neo-functionalism did not always take centre stage in the academic debate. The integration process in the European Union stagnated due to crises such as the 'Empty Chair Crisis'. Policy issues, such as the environment, seemed insurmountable (Sandholtz & Sweet, 2013). Even Haas declared integration theory obsolete around the 1980s (Sandholtz & Sweet, 2013). The declaration of neo-functionalism's death, however, was premature. In recent years, there has been more transferral of rule-making authority to the EU level, as member states decided to integrate further when signing the treaty of Maastricht in 1992. This formally established the European Union and laid the basis for an economic and monetary union and more intergovernmental collaboration on the department of Justice and Home Affairs, among others (European Union, 1992).

The European Union's policy domains have deepened and broadened (Hooghe & Marks, 2019; Sandholtz & Sweet, 2013; Risse, 2005). One of the central notions of neo-functionalism is that this deepening and broadening of integration is the result of the before-mentioned transactions across

borders, the establishment of European institutions and pluralism of societal groups (Sandholtz & Sweet, 2013). Certain actors change their behaviour and expectations due to this. The effort of influencing policy shifts, together with formal authority, to the supranational organization. These institutions become the forum for new interaction. Societal actors combine their interests and, through lobby organizations, try to influence policy outcomes. The repeated interaction influences the scope of regulation, as regulation on one topic cannot be realized without involving oneself in another field. This is more commonly known as the ‘spillover’ effect and results in the aforementioned broadening and deepening of EU regulation (Hooghe & Marks, 2019; Schimmelfennig, 2018a; Sandholtz & Sweet, 2013). Through interaction, new integration possibilities are made available or unforeseen problems produce it as a side effect.

## 2.2. Liberal Intergovernmentalism

The opposing view of Neo-Functionalism is called Liberal Intergovernmentalism (LI). The most defining feature of both academic schools is best captured by Hooghe & Marks (2019, p. 1115): *“Whereas neo-functionalism explains integration as the outcome of cooperation and competition among societal actors, intergovernmentalism explains integration as the outcome of cooperation and competition among national governments”*. International cooperation can logically follow from concluded agreements between states. However, where neo-functionalists argue that it stems from societal actors and cross-border integration, LI states that only national leaders are the drivers of cooperation. Thus, an initial difference between attitudes towards negotiations can be seen.

LI states that through a three-step process, the integration and creation of European institutions ensues. It is first important to know that economic interests mainly drive states, but not entirely. According to Moravcsik and Schimmelfennig (2009) it is issue-specific which outcome prevails. If pure economic preference did every time, there would be a free trade area stretching the entire European Union with complementary institutions, regulations, and stability. Sometimes ideology has a more significant impact, but it is again issue-specific. That is why the first step, shaping governmental preferences, happens through domestic groups. They mainly consist of firms that form potent alliances that hence shape the government’s perspective. Moravcsik (1998, as cited in Hooghe & Marks, 2019) supports this claim by stating that not party-political ideology influences preferences but is mainly formed through interest groups.

With these preferences, governments enter the second stage, the intergovernmental bargaining arena. However, different states’ interests rarely correspond (Moravcsik & Schimmelfennig, 2009). It follows that states must agree to suboptimal outcomes to reach a conclusion. Interdependence among states is shaped asymmetrical (Hooghe & Marks, 2019). Hence, states with less need for an agreement have the best bargaining position, especially when unanimity is the decision rule. Another significant difference with neo-functionalism can be identified in this second step. LI posit that the informational environment is flat, neo-functionalists think it is distributed unequally. Due to LI’s perceived flatness,

states can reach decisions without non-state policy entrepreneurs' assistance. They rarely possess information that states do not have that is essential for reaching a conclusion. Third-party mediation is, however, not excluded from intergovernmental bargaining. It may soothe the negotiations but is not fundamentally important (Hooghe & Marks, 2019). A fitting example for this thesis is the involvement of the European Commission as a third-party mediator.

Following the bargaining process and its outcomes is the establishment of international institutions. They are often conceived as functional outcomes (Hooghe & Marks, 2019). The institutions help reduce uncertainty and assist in reaching superior outcomes (Moravcsik & Schimmelfennig, 2009). Transaction costs are reduced as information flows more directly from one state to the others in these new semi-autonomous decision-making institutions (Pierson, 1996). Reducing the cost of reaching conclusions through institutions helps effectively overcome collaboration problems that might occur during the negotiation process, such as the 'prisoners dilemma' wherein states reach suboptimal outcomes due to uncertainty (Moravcsik & Schimmelfennig, 2009; Pierson, 1996).

The central claim from LI is that states are the key actors in the integration debate and are trying to maintain their autonomy (Hooghe & Marks, 2019; Moravcsik & Schimmelfennig, 2009; Pierson, 1996). This preservation can be described as a principal-agent relationship (Pierson, 1996). The member states act as the principal and delegate some decision-making authority to the agent, or thus the international institution, to perform a specific task (Ruffing, 2015). According to Moravcsik and Schimmelfennig (2009) the amount of sovereignty that is effectively pooled or delegated reflects the genuine willingness of states to reach substantive agreements on specific issues. Later in this chapter pooling and delegation of authority will be discussed more in-depth. LI predicts that the delegation is done to the extent that member states are able to manage the before-mentioned 'prisoners dilemma' and reduce transactional costs.

Path dependence is not unknown to the Liberal Intergovernmentalists (Moravcsik, 1995). Each decision is influenced by former ones. Although decided under bounded rationality, these previous agreements shape the outcomes of current and future negotiations. However, under this bounded rationality, path dependency does not always have a positive effect for the Liberal Intergovernmentalists, whereas for the neo-functionalists it does (Schimmelfennig, 2018a).

Besides the challenges that Liberal Intergovernmentalism faces from neo-functionalists and vice versa, which will be discussed later, LI is also confronted with challenging claims from within the Intergovernmentalists school itself. One of these threats is 'New Intergovernmentalism' (NI) (Smeets & Zaun, 2020). The important claim of LI that influential interest-groups shape heads of state preferences in negotiations is disputed by NI. They state that states within the European Council are better able to reach consensus and ignore domestic pressures, more so than decision-making on the lower level, such as the Council of Ministers. New Intergovernmentalism lies closer to supranationalism as described in neo-functionalism than LI does.

Liberal Intergovernmentalism has been updated to respond to these academic threats (Smeets & Zaun, 2020). Over 25 years ago, the theory was first devised by combining liberal and institutional aspects from comparative politics and international relations (Moravcsik, 2020). The founder, Andrew Moravcsik, has marginalised the role of interest groups in ‘Liberal Intergovernmentalism 2.0’. However, domestic preferences still primarily steered EU-made decisions in the past two decades. More so than by supranational organizations, according to him. Challenges that needed to be faced were resolved through interdependencies that were still asymmetrical, resulting in sub-optimal solutions (Moravcsik, 2020; Hooghe & Marks, 2019). The focus, however, now lies more on efficiency and distributional outcomes. The third stage is strengthened by the addition that institutions and their regimes do not bypass states as the powerful entity on the international stage, but they enforce states to seek out their domestic preferences.

### 2.3. Academic debate

Now that both theories are discussed on their own, a comparison will be made between the two. Before this is done, however, it must be noted that scholars from both sides explicitly state that not one theory on European integration can explain it all (Smeets & Zaun, 2020; Moravcsik, 2020; Hooghe & Marks, 2019). Smeets and Zaun (2020, p. 5) use a fitting analogy: It is not a “*gladiator-like test in which two theories enter and only one steps out*”. Each theory explains some part of the integration process but cannot account for everything on its own (Hooghe & Marks, 2019). Nevertheless, they do point out each other shortcomings, which will be discussed now. This discussion is vital because it clarifies that although there are different attitudes towards negotiations, it is never one or the other but often a combination of the two.

According to Moravcsik (2020), Liberal Intergovernmentalism covers all stages of the integration process, and even other theories rely on it to explain certain aspects. Sandholtz and Sweet (2013) dispute this. They state that Neo-Functionalism is best in offering a holistic view of integration, from the expansion of the European Union and inter-state relations to views on European identities. A point that Sandholtz and Sweet (2013) make is that liberal Intergovernmentalism cannot perfectly explain how the difference between member states preference and the divergence of institutional functioning arises. Pierson (1996) also identified this and turned to the neo-functionalism’s path dependence of institutions to close the gap. The functional difference between MS and the institutions is indeed puzzling since e.g. Moravcsik and Schimmelfennig (2009) explain that, among other reasons, the institutions are created to preserve member states’ autonomy. Real-life shows that newly created institutions have their own interests (Pierson, 1996). Their creation alone changes the game. There are more actors on stage with their own expertise. This allows them to act on their behalf. LI’s response to this claim remains vague as of yet.

Another shortcoming of Liberal Intergovernmentalism is its treatment of member states’ preferences. The theory argues that they are essentially fixed (Pierson, 1996). Although LI has roots in

market integration theory, where this fixation is indeed true, this is a too easy translation according to Pierson (1996). A first explanation as to why MS' preferences are not fixed is because governments change (Hosli, 1996). This occurs frequently and sometimes coincides with opposing policy preferences (Buruma, 2020). Buruma (2020) writes that the British prime minister Wilson tended to focus more on the special relationship with the American president Lyndon B. Johnson. After winning the 1970's election, the new prime minister Heath broke with tradition to first visit Washington after getting elected and instead chose to focus on Britain's application for the EEC. This is, however, quite an ambiguous example since Brexit has become a reality, and one might thus argue that preferences are fixed. Britain's membership of the EU could be seen as an anomaly of several decades.

Moravcsik did not sit idle for the last decades. To give his claims some contemporary backing, he made another analysis of European integration in the 21<sup>st</sup> century (Moravcsik, 2020). He argues that it is possible for governments to be responsive to pressures from the domestic level and so change their preferences. Through democratic checks and balances, they try to control institutional action. It can, however, lead to reduced efficiency and possible gridlock (Moravcsik, 2020). As he already argued in 1995, the veto power of MS remains an effective tool to control institutions and steer outcomes and preferences (Moravcsik, 1995).

Besides defending his theory from Neo-Functionalist threats, he is also able to pose critical questions at the address of NF itself. He first states that only LI can account for the three steps of integration and that other theories rely on it too in explaining themselves (Moravcsik, 2020). Moravcsik also made clear that even Haas conceded that NF was only a 'pre-theory'. As theoretical backing for this claim, Moravcsik (2020) cites the work of Haas published in 1970. However, NF was presumed dead around that time, and many scholars have revived the theory (Sandholtz & Sweet, 2013). It does not speak for Moravcsik that in his 21<sup>st</sup>-century work, he still reverts back to claims made 50 years earlier and fails to recognize NF's revival.

Moravcsik (2020) makes it clear in his recent work that LI is not claiming to predict optimal outcomes, but states make choices that are efficient for the time being. He writes that other theories only explain long-term dynamics but must revert to LI to explain the short-term outcomes. Moravcsik (2020) cites Pierson (1996) that the key propositions of LI are likely to hold at any given time. Sandholtz and Sweet (2013) might agree that is the case, but for a different reason. They claim that there are two problems with Liberal Intergovernmentalism '2.0'. What is brought forth first is that LI is not falsifiable. When institutions do as national governments wish, they preserve MS autonomy and confirm that states control the integration and are the key actors. However, when they do not comply with Member states, they carry out the task of EU-level institutions: solving efficiency issues. Thus, the theory 'holds' both ways. The second problem identified is that LI in his '2.0' version is now more similar to NF, as it agrees that states transfer authority to the EU-organs, resulting in solutions that are less preferred by Member states (Sandholtz & Sweet, 2013). This second claim, however, seems to mirror that of Moravcsik (2020), which is that NF cannot explain integration by itself and needs LI as a supplement. Who is right



about this is a matter of perspective. How then is power distributed among the organizations, and how does this influence the negotiations? The more power an EU organ has, the more there is at stake. This discussion takes place in the following section.

If the Neo-Functionalist's line of thought had been followed, the power of supranational institutions such as the European Parliament (EP) and the European Commission (EC) would have increased while limiting the authority of the Council of Ministers or the European Council (Risse, 2005). Substituting the veto power with Qualified Majority Voting would lead to a loss of autonomy of individual Member states. The agenda-setting power of the Commission would subsequently increase due to that loss, as no proposal can be vetoed. However, Risse (2005) states that a transition of the voting system only indirectly affects the power relation between the supranational and intergovernmental organizations, which has now reached a stable equilibrium.

Both theories fail to address this issue, according to Risse (2005). As described before, LI states that the power remains with the MS. NF predicts an increase of authority for supranational organizations. Risse (2005) explains MS's preference for intergovernmentalism or supranationalism. He argues that looking at the institutional design of states predicts a predilection for the former or the latter. When testing this claim, a clear correlation between institutional design and the preferred solution comes forward (Jachtenfuchs, 2002; as cited in Risse, 2005). In practice, this results in the fact that federalist states are more likely to prefer supranational solutions, whilst unitary states skew towards intergovernmental agreements. The federalist members of the European Union are accustomed to delegating sovereignty across different governmental levels.

The discussion about the two schools of thought has painted the picture of why and how different attitudes towards negotiations are present within the EU. These two also resonate in negotiation theory, which is discussed in the following section.

### 2.3.1. Deliberative theory

The comparison between the two academic schools remains an abstract discussion. A more practical application of them can be found in deliberative theory. Negotiations can take two forms, arguing and bargaining (Naurin, 2009). Both can be used to reach a collective decision, but bargaining uses threats and promises in the exchange of interest aggregation to reach a conclusion. Arguing is more focused on the value of certain policy solutions and convincing others of that value. Within negotiation theory, two ways of looking at European Integration, and the negotiations that further it, are present: Deliberative Intergovernmentalism (DI) and Deliberative Supranationalism (DS). The former is related to Liberal Intergovernmentalism and the latter to Neo-Functionalism.

DI is convinced that the EU can be viewed as an intergovernmental regime that, through policy coordination, can successfully manage interdependence (Puetter, 2012). In its purest form, this view is utopian, as not every process can be fully rationally negotiated. DI thus expects that two logics of interaction are present, being the logics of consequence and appropriateness. Logic of consequence is

more rational and goal-oriented, as political actors are goal-driven with exogenous and fixed preferences, whereby appropriateness is norm oriented, and their identity and preferences shape the behaviour of actors are not fixed (March & Olsen, 1989). Policy negotiations can, in the eyes of political actors, be viewed as successful when EU policy corrects certain ‘nation-state failures’ for both DI and DS (Puetter, 2012). The difference is, however, that DI does not focus on the supranational sphere of law-making but on the intergovernmental aspect of policy coordination. DS finds that deliberative processes are concluded when endorsed at the EU level. Deliberative Intergovernmentalism sees it as a more everlasting process at all phases of the policy cycle. Thus, it is considered a pre-condition if EU-level policy-making wants to succeed (Puetter, 2012). These deliberative processes are at the heart of democracy, and deliberative democracy is often brought in position against economic conceptions of democracy, such as Liberal Intergovernmentalism (Naurin, 2009). In LI, politics are more understood rationally, with conflicting interests, and the deliberative process can thus be seen more as bargaining. Deliberative democracy – or Deliberative Supranationalism – is more focused on arguing: a discussion on the merits (Naurin, 2009). The section on DI and DS shows that the sentiments and attitudes described before resonate in the negotiations. An initial step is taken by identifying that these schools of thought come with the expectation that the behaviour can differ during the negotiations. It is now essential to focus more on these negotiations and the different forms that can be differentiated.

#### 2.4. Negotiations

Negotiations are never stand-alone phenomena but always consist out of a sequence. In the previous section, there were two modes of negotiating: arguing and bargaining. Both of these have different sub-modes, which must be understood. These different modes of decision-making constitute the sequence of negotiation stages. Warntjen (2010, p. 671) gives an example of such a sequence: “*a pre-negotiation stage of co-operative exchange can be followed by distributive bargaining. Deliberation might take place when discussing issues of implementation in a post-negotiation stage.*”. He also states that this sequence can differ depending on the context. Therefore, the policy area must be kept constant in the later analysis to keep as much of the context the same.

A challenge that occurs next is creating a framework that can evaluate and identify the different negotiation modes. If a clear framework is not established, it is hard to make a valid comparison between different respondents or make a valid reproduction of the analysis. The framework will also be used for the within-case research to evaluate and identify the evidence. It will be based on theory and several case studies conducted by previous scholars.

An initial starting point for this framework is gathered from the work of Naurin (2009). He asks three main questions: “*To what extent is decision-making within the Council based on arguing rather than bargaining? Under what circumstances is arguing more likely to occur? Are some actors more inclined to engage in arguing than others?*” (Naurin, 2009, p.32). That study has conducted several case studies using process tracing. He finds an empirical pattern that points to arguing being more common

under the unanimity rule than bargaining. An explanation for this finding is that the veto power under unanimity provides the security needed for an actor to argue instead of bargain. However, these case studies varied across policy fields. This does thus not allow for a comparison between QMV and unanimity, where context is kept as much the same as possible. A different policy field may result in different stakes. One decision might regard core state powers whilst another might not.

This thesis builds on Naurin's study but focuses on negotiations in the same policy area. It allows testing the expectation that arguing will be more present than bargaining in the negotiations that are decided under the unanimity rule while keeping the context as similar as possible. According to Naurin (2009), several actors stated that bargaining becomes more frequent when a formal decision is within sight. Next, it is essential to identify the different modes of decision making, their characteristics and sub-forms. For this, inspiration is drawn from several case studies.

First, Elster (1991, as described in Niemann, 2004) points to the fact that both forms of negotiating are hard to distinguish in real life. At their best, they can be conceptualized in their ideal form and to empirically identify them one has to look at which form fits best in the given situation. The sequence of negotiations does not, however, merely consist of arguing and bargaining. Multiple forms of both modes can exist. Different scholars name these distinguishable types differently. Warntjen (2010) identified distributive bargaining, co-operative exchange, norm-guided behaviour and deliberation. Naurin (2009) distinguishes deliberation, rhetorical action, integrative bargaining and distributive bargaining. There is some overlap between the two, but also some differences. The latter's four are elaborated upon first, to which the former is compared. Both are then combined into a usable framework for the analysis. The core difference between arguing and bargaining is as follows: threats and promises form the basis of bargaining while arguing revolves more around the merit of an argument. The former's preferences are fixed, while the latter's can change.

#### 2.4.1. Modes of negotiating

According to Naurin (2009), two distinguishable forms of arguing exist: a competitive and a co-operative form. Competitive arguing, or rhetorical action, is negotiating on the merits without reciprocity. The actor proposing the argument does not want to create a common understanding but solely to convince the other negotiation partners that he or she is right, hence the lack of reciprocity. Modes of identifying competitive arguing are as follows: actors can give a monologue stating their position. They can reason populistically, such as stating positions without giving factual backing or engaging in rhetorical action, which is done by using normative arguments.

The norm-guided behaviour described by Warntjen (2010) is a form of arguing but does not compare to any of Naurin's (2009) forms. He describes that socialization over time dictates what the norm should be and thus how the actors behave in negotiations. 'Going native' is the correct term for trying to reconcile national interest with European interest during negotiations. Modes of identifying

are: when actors reference the internalized norm when commenting on other actors. A second mode is when actors are seen reconciling multiple positions with the EU norm.

Co-operative arguing is the opposite of competitive arguing. It is a discussion on the merits to create a shared understanding among all actors involved. Deliberation is Warntjen's (2010) form of co-operative arguing. This form largely corresponds with Naurin's as also he argues that actors try to find a reasoned consensus. An important note is that once an argument is made that is not 100% true, it can never be retracted by the actor that made it without losing credibility. Besides that, newer members are more likely to be persuaded as they have no firm conviction on specific topics yet (Warntjen, 2010). The modes of identifying are: engaging in dialogue, elaborating on each other's views, and discussing the empirical facts and normative principles that other actors pose during negotiations.

Bargaining also exists in a competitive and co-operative form. According to Warntjen (2010), the former, or distributive bargaining, means that an actor tries to settle an argument by forcing the other parties to make concessions. Conflicts are here seen as a zero-sum game, where one actor tries to get the biggest piece of the pie, making his or her gain a loss for the other. Both scholars describe that an actor only wants to accept a deal if it makes him or her benefit more than an alternative deal. Warntjen (2010) does add that not being eager to make a deal makes an actor more potent because he or she does not have to compromise to get what he or she wants. It is also added that actors benefit from being the council's president as one can make the first offer and benefits from institutional factors. Modes of identifying are: Actors who highlight promises that other actors made earlier during the negotiations to hold them to their promise.

Integrative bargaining's primary goal is to create the biggest pie possible for all (Nieman, 2009). Actors try to clarify their positions to exchange information in a co-operative manner. Integrative bargaining (Naurin, 2009) and co-operative bargaining compare (Warntjen, 2010). Warntjen (2010) highlights the importance of log-rolling and the relative power an actor gains under Qualified Majority Voting. Modes of identifying this form of negotiating are: when an actor states what he or she wants, when an actor tries to clarify what another actor wants, when actors try to search for the optimal solution, when votes are exchanged, i.e. logrolling, and issue linkage.

#### 2.4.2. Framework

Both scholars have done extensive research on the modes of decision-making. Three of these four can be seen as overlapping and only being named differently. However, both have a fourth category that does not appear to be similar. As both scholars bring forward very clear frameworks, the decision was made to combine these two into one, which will be used in this thesis. The five categories in the framework allow for a detailed analysis of the sequence of negotiations as there are more categories of interaction to choose. The framework looks as follows:

**Table 1: Modes of negotiating**

	<b>Arguing</b>	<b>Bargaining</b>
<b>Co-operative</b>	<p><b>Deliberation:</b> Finding reasoned consensus, try to persuade new members.</p> <p>–</p> <p><b>Mode:</b> Dialogue, elaborate each other’s views, explore each other’s understanding of empirical facts and normative principles</p>	<p><b>Integrative bargaining:</b> Maximize the gains of all actors, including one’s own gains.</p> <p>–</p> <p><b>Mode:</b> Clarify wants of other and self, searching for optimal compromise solution, forming alliances, log rolling, issue linkage.</p>
<b>Competitive</b>	<p><b>Rhetorical action:</b> negotiating and persuading others but without any reciprocity.</p> <p>–</p> <p><b>Mode:</b> Monologue, Rhetorical action, populist reasoning.</p>	<p><b>Distributive bargaining:</b> Maximizing the gains of only your-self, zero-sum game.</p> <p>–</p> <p><b>Mode:</b> Signalling earlier made promises, pressuring via threats and demands, giving concessions</p>
<b>Standardized</b>	<p><b>Norm-Guided behaviour:</b> Using internalized norms as baseline for reaching consensus.</p> <p>–</p> <p><b>Mode:</b> Referencing the norm. Reconcile positions to benefit European interests.</p>	
<p>Note: Inspiration for this format is drawn from Naurin’s 2009 work. The content of the table is a combination of Naurin (2009) and Warntjen’s (2010) work on decision-making modes</p>		

These forms of decision-making can, during the negotiation stage, differ. This is what makes the sequence of negotiation stages. Warntjen (2010, p. 271) writes: *“For example, a pre-negotiation stage of co-operative exchange can be followed by distributive bargaining. Deliberation might take place when discussing issues of implementation in a post-negotiation stage. Alternatively, different modes might be at work depending on the context.”* The level of authority, the salience of the issue at hand, the decision rule, and the council presidency; all these factors contribute to what form of negotiation is present. Therefore, in the following subchapters, will these institutional factors be analysed in-depth on how they can influence the negotiations. What are the advantages of being the council’s president? How can an actor benefit from it during the negotiations?

## 2.5. Decision-making in International Organizations

The first issue influencing decision-making in International Organizations is salience, better known as politicization. The politicization of a policy area can influence the negotiation process. It is defined as *“an increase in polarization of opinions, interests or values and the extent to which they are publicly advanced towards the process of policy formulation within the EU.”* (De Wilde, 2011, as cited in Schimmelfennig et al., 2015). According to Schimmelfennig et al (2015), European integration is an interplay of interdependence and politicization. The initial demand for it flows from growing interdependence among states. Politicization is the intervening factor in the causal relationship between

the two. High interdependence and low politicization result in more integration. However, high interdependence and politicization results in failing or differentiated integration as seen in the EU system.

Nevertheless, what determines whether or not an issue gets politicized? Schimmelfennig et al (2015) cite Genschel & Jachtenfuchs (2016) on the fact that core state powers tend to politicize more than non core state powers. Core state powers are “*Key functions of sovereign governments including money and fiscal affairs, defence and foreign policy, migration, citizenship and internal security.*” (Genschel & Jachtenfuchs, 2016, p. 42-43). European integration of these ‘powers’ started with the Single European Act (SEA) and has expanded further with the following EU treaties.

The integration of core state powers thus shows that EU involvement does not per se increase European integration. Once integration affects higher politics, it might reach a standstill (Hooghe & Marks, 2019). This sub-chapter shows that certain issues are more important to actors than others. This is the reason why it is important to keep the policy area the same. They might be so crucial that MS are reluctant to transfer authority and thus choose not to participate on the matter or tend to politicize the issue. In that regard, they might deploy a different negotiation strategy such as distributive bargaining to gain the most advantageous deal for themselves.

#### 2.5.1. Authority

In the previous section, capacity building was mentioned. It “*involves a visible reallocation of ownership rights over core state powers to the European Level*” (Genschel & Jachtenfuchs, 2016, p.49). The European level refers primarily to the Council of the European Union, also known as the Council of Ministers or simply as ‘The Council’ (Cross, 2012). To fully understand how the council functions, how it concludes decisions and its role in the integration process, each aspect will be discussed in depth.

The substitution of unanimity with QMV shows the genuine willingness of Member states to pool or delegate sovereignty (Moravcsik, 1993). As this thesis revolves around the implementation of QMV in the Council of Ministers, it is essential to look at how authority is pooled in or delegated to this collective decision-making organ. First, a distinction is made between delegation and pooling, after which the discussion is applied to the Council. The term ‘delegation’ is most of the time inter-usable applied to both delegation and pooling, but they are not the same.

In International Organizations (IOs), authority can be delegated or pooled. Hooghe & Marks (2014) argue that both forms differ from each other, empirically and conceptually. Before they are discussed, however, ‘authority’ is examined. Before, it was mainly categorized as a concept belonging to sovereign states but the term is now also applicable to IOs. Authority is “*a social contract in which a governor provides a political order of value to a community in exchange for compliance by the governed with the rules necessary to produce that order*” (Lake, 2010 as cited in Hooghe & Marks, 2014, p. 307). Several types of authority exist, but only legal authority is relevant for this thesis; thus, the other types

will not be discussed. This form is institutionalized in rules, specified and dependent of the organization and not a person. (Hooghe & Marks, 2014). It applies to the Council of the European Union.

An IO's authoritative design strongly correlates with the policy portfolios addressed in the IO. In this design, two types can be distinguished: delegation and pooling. The former is defined as granting an independent body authority and allowing it to act independently of Member states. (Hooghe & Marks, 2014). The benefits of delegation are as follows: first, it reduces transactional costs, as the General Secretariat, previously referred to as the independent body, is a permanent one. Second, states do not share information directly but might be less reluctant to do so with the General Secretariat. Ruffing (2015) described a process of increasing information asymmetry among states. Through the delegation of authority and the before-mentioned benefit of sharing information with the permanent body, this asymmetry might be overcome and allow for a more level playing field between MS. Third, as the General Secretariat's main occupation is realizing the IO's policy goals, it can maintain commitment to them (Hooghe & Marks, 2014). Fourth, the secretariat is better able to prevent issue cycling.

Whereby the General Secretariat becomes the agent in the PA relationship when authority is delegated, the principal remains the chief decision-maker when it is pooled (Hooghe & Marks, 2014). When authority is pooled, three components are essential to take into consideration. First, when a decision is concluded, how far is it then binding? Second, how can their decisions be ratified? Different organizations have different procedures. And third, what are the rules that apply in order to conclude an agreement, such as the voting procedure.

When delegating authority, states grant the secretariat certain discretionary space in which they may perform their task. If they pool authority, they want to remain in charge and influence outcomes to a certain extent. Both types of 'delegation' pose different issues for Member states. It was mentioned before during the academic debate, but the agent can pursue its agenda. On the other hand, while pooling, states can find themselves subject to majority rule with which they do not comply.

Hooghe & Marks (2014) claim that two factors influence the authoritative design. Membership and policy portfolio. Membership, in this case, refers to the number of participating states within the IO. The more homogenous International Organizations are often located in the same geographical region and have fewer participating states. They share cultural and religious similarities, and so the urge to defend their national sovereignty is less likely to be present. Consensus can work in small-N organizations. When the number of participating states rises, unanimity can have negative consequences, such as deadlocks. Retaining the right to veto in a large-N IO cuts both ways. As the N-factor grows, the influence of any single MS on the decision-making process decreases. Unanimity prevents becoming subject to majority rule. On the other hand, the decision-making is delayed and blockades can be formed. It becomes challenging to reform policy on a larger scale since the likelihood of states not agreeing to a solution grows. Thus deviation from the status quo is less likely. When viewed rationally, members in large-N IOs are incentivised to negate individual control by shifting to majoritarian decision-making. It

is beneficial in overcoming functional impairments such as rising costs and blockades (Hooghe & Marks, 2014).

### 2.5.2. Council presidency

Complexity is also visible when setting the agenda. A plethora of issues demands a structured one. Since the Council resides over many issues, it is thus essential to examine agenda-setting and who holds it to determine its influence on the decision-making process. Multilateral negotiations are becoming the formal arena for states to address issues of concern in the increasingly globalized world (Tallberg, 2010). Tallberg (2010) argues that a debate has risen over the past two decades on the core issues of efficiency and matters of distribution. He states that in overcoming these kinds of problems, the chairmanship of an International Organization is of fundamental importance.

The chair fulfils functions such as setting the agenda, representing the office and brokering agreements. These functions allow the chair to steer the negotiations, possess information that others do not, and reach an agreement they prefer. Previously conducted research on EU negotiations does agree that the presidency contributes to the outcome. However, the dominant bargaining theory did not fully recognize the influence and function of the chair, according to Tallberg (2004). Due to the previously described benefits of the chair its role in the negotiation process can be of great importance. First, the different types of chairs will be considered, after which an analysis will be made of the presidency of the Council of the European Union.

Considering the types of chairs is important because different institutional designs produce different incentives and powers (Tallberg, 2010). Three models are distinguishable: a rotating chair, the election of a chair or the election of an official as a supranational representative.

The first model, a rotating chair among participating states, has a few advantages dependent on two factors. Benefits are that the other members grant him or her certain discretionary space in executing the office and thus allow the chair to further his or her policy goals. This is because they will also be in that privileged position and enjoy the same benefits (Tallberg, 2010). In this model, logrolling is also present: the practice of granting each other favours based on reciprocity. Through this practice, progression on the agenda can be made. The proper functioning of a rotating chair is contingent on two factors: the length of the chairmanship and the number of participants. Length is important because the official must be able to advance his or her agenda in the given time. A too short period limits the exploitability of the office. Second, if there are too many participants, the time between holding the office and the next time is too long to benefit. If both the participants are many and the chairmanship duration is short, it becomes an unstable design (Tallberg, 2010). If it is the other way around, it will prove stable over time.

The second design, the election of a chair, is less impactful (Tallberg, 2010). He or she will be elected for a given time. Other participants will therefore impose control mechanisms. Ex-ante will they elect a neutral chair who does not have strong national preferences on the topic over which he or she resides as chair. Ex post control is exercised through time limits on the function and criteria for re-



election. What is gained here is that states will not fully exploit the function if they wish to keep the position in the future and get re-elected (Tallberg, 2010).

Tallberg (2010) distinguishes electing a supranational representative as the third design. This form too is less prone to the exploitation of national interests. It goes hand in hand with delegating authority to supranational organizations and can thus be seen as a loss of authority for individual member states. This design is therefore also subject to control mechanisms (Tallberg, 2010). Chairs in this institutional design can deviate from member states preference and are reigned in through budget control and approval, mandate revision or authority over high-ranking appointments within the organization. It leads to consensus decision-making so that all parties are satisfied. A progressive agenda is less likely to prevail in this chairmanship design.

Considering the three types, the first design allows individual states to influence policy outcomes the most. This chairmanship can also be identified within the Council of the European Union (Europa.eu, 2020). This is not the case for the Foreign Affairs configuration, where there is an elected High Representative of the Union for Foreign Affairs and Security policy.

Tallberg (2004) states that the presidency can play a vital role in reaching agreements. Previous literature tends to be underdeveloped, according to him. In his 2004 study, he conducted two case studies in which he pointed out the presidency's preference and the eventual policy outcome. The resources that the chair poses are twofold. First, he or she possesses informational resources gaining the informational advantage. Second, he or she enjoys the procedural means such as the previously discussed agenda-setting power. Their position as the broker of agreements is often used to steer the policy solution towards an outcome they prefer and aligns with national preferences. The previous section elaborated upon several institutional factors of the Council which are essential to address, both here and during the interviews. Here it was shown that these factors influence the negotiations according to the literature. Thus, this makes clear that the respondents' views on the matter should be asked so possible effects can be quantified and confirmed or disproven.

## 2.6. Voting procedure

As mentioned before by Moravcsik & Schimmelfennig (2009), and also stated by Andreas Mauer in Martinus (2006), is that in order to remain an efficient decision-making body, member states need to let go of the notion of retaining national sovereignty and embrace majority decision-making. What are the different voting procedures, and what are their implications on the negotiations? The goal of the following section is to explain this.

### 2.6.1. Qualified Majority Voting

Deciding unanimous with 27 members is challenging. From the treaty of Maastricht, through Amsterdam and Nice up until Lisbon, the field of application for Qualified Majority Voting (QMV) has been extended. In chapter 21 of Martinus' (2006) work, Mauer finds that extending the field does not

per se lead to more majority decisions. *“In fact, majority decision-making functions more as a sword of Damocles, sweeping above the Council to increase the probability of decision-making in the ‘shadow of voting’”* (Martinus, 2006, p. 440). Moravcsik (2018) also says that it is not a common occurrence, a QM vote, but more something that remains in the back of the minds of member states. The treaty of Lisbon provides that all decisions are taken through majority voting unless the treaty provides otherwise. Sieberson (2010) poses that these matters, which are still taken under unanimity, touch heavily upon the members' sovereignty. In light of current events, such as the rise of illiberalism within the Union, it can be seen why some members want to uphold unanimity when decisions about ‘breaches of EU values’ are to be taken (Kelemen, 2020). The following section will explain what Qualified Majority Voting is, how it relates to unanimity and its implications on the negotiations within the Union.

To put the matter of the decision rule into perspective, a look at the past gives context. During the negotiations about the Single European Act (SEA), three options were on the table concerning the decision-making procedure in the Council of Ministers (Hosli, 1996). A Simple Majority where every member has one vote, the unanimity rule and the Qualified Majority rule. In the end, Qualified Majority Voting was adopted in the SEA. This was done so that the steps required to complete the internal market could be taken (Sieberson, 2010). Following treaties extended QMV, and the Lisbon treaty provides for its complete adaptation except where it is required otherwise. Despite reservations against unanimity by the founders of the European Union, it became a core principle of the EU. From the treaty of Rome onwards until the SEA, unanimity was the guiding voting procedure. Only after the SEA did QMV become the standard rule again.

Qualified Majority Voting is not voting on the premise of ‘one country, one vote’ but a combination of the percentage of the population of the Union and a majority in the Council. The treaty of Lisbon states in Article 9c4 that *“As from 1 November 2014, a qualified majority shall be defined as at least 55% of the members of the Council, comprising at least fifteen of them and representing Member states comprising at least 65% of the population of the Union”* (European Union, 2007). Unanimity entails that all states must agree on a certain solution for it to be concluded.

### 2.6.2. Unanimity

At the basis of unanimity lies that in International Law, a fundamental principle is that all parties must agree to initial consent to a treaty and its future amendments (Sieberson, 2010). Following this line of thought, the decision-making rule in an International Organization would subsequently be the unanimity rule. There are also two basic rules regarding voting in IOs. The first is: ‘one state, one vote’ but taken in the notion of state sovereignty and equality. All participants have a single vote, no matter how big or small. Second. Legislation cannot be imposed upon a state without its consent. Unanimity stands as the guarding principle for this rule.

Nevertheless, despite how fundamental these principles might be, it is in Sieberson (2010) described as hindering the progress that can be made within organizations. Again, no matter how big or

small, any state can block legislation through unanimity. Resolutions must be written ambiguously until all parties are satisfied. For organizations designing and asserting policy, resulting outcomes can be very ineffective. Taking these considerations in light of the European Union, they partially hold. States can find themselves subject to majority decisions with which they disagree. Nevertheless, unanimity has not inhibited the European Union in achieving its goals, as it has come to where it is now. However, QMV has been applied on several occasions, extended to more policy fields over the years, and has been part of achieving policy goals.

Although unanimity can ensure peace and stability among members, stagnation might result from it. Sieberson (2010) describes that multiple scholars agree, saying that unanimity might lead to inaction. In the words of another academic, states threaten to vote against a solution to gain favours in another policy field.

### 2.6.3. Decision-making now

The concerns of those wanting to uphold one's sovereignty were heard. The possibility to block legislation under QMV is codified in the treaties. However, one country cannot go at it alone. "*A blocking minority must include at least four Council members, failing which the qualified majority shall be deemed attained*" (European Union, 2007).

Besides the concern that upholding the unanimity rule could bring the EU's activity to a standstill, the member states' leaders saw the need to extend QMV to further the integration process. What justified this choice is the fact that although QMV is the thing that resembles full delegation of authority best without entirely doing it, it still maintains an essential role for Member states (Moravcsik, 2018). That is where it deviates from full supranationalism, where a permanent body holds the decision-making capacity. Proposals made by the Commission need approval based on a majority of the population of the Union and Council (Sieberson, 2010). States each hold a percentage with which they need to build a majority. The 55% rule protects the smaller states from being permanently overruled by the larger countries. When set off against each other, the larger states appear to be 'underrepresented' (Sieberson, 2010). According to data gathered by Hagemann and Franchino (2016), even these states get outvoted on several occasions. The more northern members and the states with a larger share of the population find themselves in the minority more times than the small states.

The reality is, however, that within the council, they still seek consensus, despite the availability of QMV. The explanation for this phenomenon is described by Best (2004). He stated that the Qualified Majority rule is there to remain an efficient body and to remain able to act. Nevertheless, in a Union that is so diverse, one must seek consensus and protect minorities. These beliefs are so important, and thus consensus is often sought instead of a qualified majority.

The minor states are protected in several ways under the Qualified Majority rule. As the Lisbon treaty says: a vote must represent 65% of the population of the Union. A small group of states with large populations will acquire this percentage more quickly than others. That is why 55% of the member states

also need to be represented in a vote. Currently, that means 15 out of 27 votes. The protection also goes the other way. A blocking minority needs to represent 35% of the EU population. France, Italy and Germany can easily reach this number. Four members need to be included in the blocking coalition to protect the smaller states.

Hosli already wrote in 1996 that introducing the new voting system and the increasing implementation of QMV would lead to a change in voting behaviour. As was discussed in this chapter, domestic preferences shape the bargaining behaviour of states as they can be described as two-level games (Putnam, 1988). The implementation of QMV has added to that equation the relative power of Member states (Hosli, 1996).

Previous studies have thus shown that the shift towards majority voting has affected the relative power of the larger member states and that it leads to different voting behaviour. This behaviour difference will probably resonate in current negotiations within the Council. It is thus time to draw up expectations from the information gathered in the literature.

## 2.7. Expectations

At the beginning of this chapter, several questions were posed. The theory was analysed extensively to understand every concept of the research question properly. Neo-Functionalism helps understand why rule-making authority is transferred to the supranational level, with which Liberal Intergovernmentalism '2.0' agrees. The deepening and broadening of integration results from the change in certain actors' behaviour. Before and during the integration process, repeated interaction helps in seeing mutual benefit in collective decision-making. Liberal Intergovernmentalism explains the creation of institutions at the EU level. These two academic schools explained how the integration came to where it currently is. Next, Deliberative Intergovernmentalism and Deliberative Supranationalism were discussed. Since negotiation is at the heart of democracy, it was bound to be present within the EU. However, the theory showed that the EU is a heterogeneous Intergovernmental Organization with preferences differencing between intergovernmental or supranational solutions. That is also why arguing and bargaining tends to be present in the negotiation stages. The theory has made it possible to distinguish the following four types: distributive bargaining, co-operative exchange, norm-guided behaviour, and arguing.

However, different tactics are present at different stages in the negotiation. During the analysis of arguing and bargaining, several institutional factors came to the fore that, according to the theory, influence the negotiations. All of these influences were analysed. The salience of issues was discussed with the concept of core state powers. If the topic is found salient by a member State, it changes the dynamic of negotiations.

Which way the decision-making authority is delegated can be done in two ways, pooling or delegating, with different applications. It is pooled within the European Union council, as ministers from the national level take a seat within the Council. Last but not least, the voting procedure was analysed. This had to be done in-depth as this variable changes within the research question. Naurin (2009) posed

in his paper that under the unanimity rule, arguing is more common. The veto power that actors hold gives them the security to do so. Therefore, bargaining is expected to be more present under QMV. Although the formal shift from unanimity to QMV is made possible by the treaty of Lisbon, the fact is that decisions are still unanimous, a concept that Tsebelis (2013) describes as q-unanimity.

Besides illuminating the concepts in the research question, this chapter was there to raise expectations for the data analysis. The research question was: “*What is the effect of substituting unanimity with qualified majority voting on behaviour of member states’ representatives in meetings of the Council of the European Union?*”. These expectations are as follows.

### 2.7.1. Expectation 1

The first expectation is a general expectation. Previous scholars have stated that there is an effect on the behaviour of member states’ representatives when the decision rule is changed from unanimous decision making to Qualified Majority Voting. However, they looked at multiple policy areas. This thesis looks at one policy area. In order to dive deeper into the material, it must first be established that the same effect is also present when researching only one policy field, and hence the first expectation is:

*Changing the decision rule from unanimity to Qualified Majority Voting has an effect on the behaviour of member states’ representatives during negotiations.*

Within the Union, there are member states that prefer intergovernmentalism and those that prefer supranationalism. A correlation appears between national institutional design and the preferences for intergovernmentalism and supranationalism. LI posits that power will remain or is tried to be kept in the hands of member states, hence keeping the EU an intergovernmental organisation (Moravcsik, 2020). NF opposes that view, which explains the integration process as shifting authority towards a supranational level. These differences in preferences translate into the negotiating process. Puetter (2012) identified two forms of negotiating: Deliberative Intergovernmentalism and Deliberative Supranationalism. The name identifies to which school of thought it is related. Following the logic of the academic debate, DS sees the negotiations within the Council as taking place in a supranational setting. At the same time, DI focuses on the intergovernmental aspects of the negotiations of policy coordination. These different forms during negotiations steer the attitudes of member states’ representatives because DI sees negotiations as an everlasting process. In contrast, DS sees negotiations as complete when they are concluded at the EU level (Puetter, 2012). Different attitudes mean different opinions on decision-taking rules, and different opinions mean different kinds of behaviour during the negotiations.

### 2.7.2. Expectation 2:

When the first expectation is confirmed, the second and third expectations can be researched. They will start to look more in-depth at the effect of changing the decision rule. The first level of differentiation between negotiation tactics is between bargaining and arguing and which form is more dominant during a decision rule. The second expectation is:

*When a decision is taken under QMV, bargaining tends to be the dominant negotiation method present during the negotiations, while arguing is more present under the unanimity rule.*

The second expectation is that when a decision is taken under the QMV rule, bargaining tends to be the dominant logic present during the negotiations while arguing is more present under the unanimity rule. This expectation starts with the premise that within negotiation theory, two different types of negotiating are present: arguing & bargaining (Warntjen, 2010; Naurin, 2009). Described earlier in the chapter was that arguing revolves around claims of validity. At the same time, bargaining is more focused on trying to convince the other parties and enlarging one's piece of the pie. In Naurin's 2009 work, arguing tends to be more common under the unanimity rule because MS enjoy the safety of vetoing a decision and are thus more willing to reveal their true interests. Vice versa, bargaining is more common under the QMV rule as there is no safety net, and revealing one's genuine interest might work against him or her. In line with Naurin's theory, it will also be expected that arguing is more common during the decision taken under the unanimity rule. It will be the other way around for the decision under the QMV rule.

### 2.7.3. Expectation 3

In the literature, five modes of negotiating were uncovered, which were all a form of arguing (deliberation, rhetorical action and norm-guided behaviour) or bargaining (integrative bargaining and distributive bargaining). To uncover the effect of changing the decision rule even further, the third expectation is thus:

*The sequence of negotiations of a decision taken under QMV will see bargaining tactics in an earlier stage in the negotiations than a decision taken under the unanimity rule.*

Warntjen (2010) and Naurin (2009) identified different forms of arguing and bargaining that are conceptualized in this thesis. These modes will later, during the operationalization, be elaborated upon. However, the expectation is that two forms, integrative and distributive bargaining, will be more common during the decision that will be taken under the QMV rule. However, both decisions will see more bargaining tactics towards the end, as a formal decision draws closer.

Each style of arguing or bargaining can occur at a given point in the negotiations. An example was given by Warntjen: *“For example, a pre-negotiation stage of co-operative exchange can be followed by distributive bargaining. Deliberation might take place when discussing issues of implementation in a post-negotiation stage. Alternatively, different modes might be at work depending on the context.”* (2010, p 271). All these forms of arguing and bargaining sequentially combined form the sequence of negotiations. However, the theory states that bargaining is more common in a later stage of the negotiations as a formal decision looms on the horizon.

Nevertheless, as was said earlier, MS enjoy a certain safety with the unanimity rule. As this safety net is not present during a QMV, they will revert earlier to bargaining tactics to secure the biggest piece of the pie for themselves. Hence the third expectation is that the decision taken under the QMV rule will see the dominant negotiation logic shifting towards bargaining in an earlier stage of the negotiations than the decision taken under the unanimity rule.

To test these expectations, a case will be selected in which the independent variable, the decision rule, varies in the period after the 1<sup>st</sup> of November 2014. Interviews will be conducted with representatives who negotiate on this selected policy area for their country. The purpose of interviewing them is to gather their perceptions on the effect of changing the decision rule on the behaviour of actors during the negotiations, create a general overview of the negotiating process, and make scientific statements about the effect eventually. The expectations form a preliminary answer on the RQ. The first expectation established that the proposed effect by other scholars also exists when researching only one case. The second and third expectations build on this effect and investigate it more deeply. The following chapters will discuss the methodology, after which the analysis follows. The thesis ends with a conclusion and recommendations.

### 3. Methodology

The following section will elaborate upon the case and participant selection, how data was gathered, which method was used to analyse it, and how the literature was operationalized to make the concepts measurable during the interviews. In the end, control variables are mentioned, as well as the limitations of this research design.

#### 3.1. Case and participant selection.

The case selected for this thesis is the policy area of agriculture. The goal is to construct a general overview of the negotiations in this council constellation and how changing the decision rule influences these negotiations. This overview is going to be created by conducting interviews.

The policy area of agriculture was established in 1962 to provide the European Union's citizens with affordable food and support the farmers with reasonable standards of living (Europese Commissie, 2020). All member states support these goals, which cannot be achieved without financial aid. In 2016, 38% of the EU budget was spent on investments for farmers for sustainable production purposes. Agriculture policies consist of three areas: sales support, income support, and rural development. The finance for these areas is laid down in the 7-year EU budget. This policy field is not undisputed (Europese Commissie, 2020). Common concerns voiced are that almost half of that budget goes to agriculture. Although a significant portion of the budget does indeed flow towards agriculture, it is the case because agriculture is one of the only policy areas solely financed by the EU, whereas member states themselves support other areas. Being primarily financed by the EU and that the decisions are solely taken at the EU level makes it a good policy area for selecting the participants. The policy area must not differ across these respondents, as different policy areas would result in different behaviours during negotiations. Not doing so while selecting the case also is where the scientific relevance lies.

Decision-making on the policy area of AGRIFISH is mainly done through QMV, although it sometimes happens that decisions are taken under the unanimity rule. This has been the case since the implementation of the treaty of Lisbon. The new rules regarding Qualified Majority Voting have been in effect since the 1<sup>st</sup> of November, 2014. Furthermore, besides controlling for one policy area while differing on the decision rule, all interviews will concern the negotiations that have taken place after the 1st of November 2014. The treaty of Lisbon states “*that all decisions are taken through majority voting unless the treaty provides otherwise.*”. The decision rule can thus differ when member states request it. While browsing the website [consilium.europa.eu](http://consilium.europa.eu), it shows that it has happened on several occasions, such as the decision ‘*Interinstitutional number: 2020/0059 (COD)*’ or decision ‘*Interinstitutional File: 2018/0811 (CNS)*’.



### 3.2. Data gathering

In finding appropriate respondents, the pool is thus limited to the policy area AGRIFISH. Considering this, the pivot is made towards finding participants for the interviews who negotiate for their country in the policy area of agriculture and fisheries. In order to contact them, the following search query was used in Google: “*permanent representation of [country] to the EU*”. This search query results in finding the country’s webpage on who is working at the permanent representation to the EU. Searching these pages, email addresses of general secretariats, secretariats of the specific policy area of AGRIFISH or personal email addresses were found and hence emailed. Emails were sent to all European Union members, as there is no differentiated integration on the policy field of AGRIFISH. Emailing all member states also helps avoid selection biases since not the interviewer but the interviewee chooses to participate and thus be selected. The only thing the researcher has to keep in mind is the geographical spread across the European Union. Interviewing only countries from, for example, the north might give a skewed image of the negotiations as there are multiple sentiments and cultural differences in the Union. The best geographical spread would be having participants from all regions of the EU.

Furthermore, the email contained a request for an interview, the subject in general terms, the handling of data in light of the GDPR. This round of emailing resulted in eight respondents who were willing to participate, coming from north, east, south, west and central Europe, with eastern and central Europe being a bit more represented than the other regions. All the respondents were willing to conduct an interview online. Eventually, seven interviews were held as one respondent did not show up.

According to Boeije (2014, p. 61), an interview can be defined as: “*a form of conversation in which one person – the interviewer – restricts oneself to posing questions concerning behaviours, ideas, attitudes and experiences with regard to social phenomena, to one or more others – the participants or interviewees – who mainly limit themselves to providing answers to these questions.*”. In preparation for these interviews, a topic list was made as a guideline during the interviews. Several topics were touched upon, from the control variables to asking about the independent variable. As these are guidelines and not an exact protocol to follow, the interviews were semi-structured. The topic list is included in appendix 7.2.

The topic list is ordered so that the control variables are discussed first before shifting towards the important part: the decision rule and the way actors negotiate under these rules. However, the questions are not asked in such a way that the actor can directly answer them but in such a way that it allows them to talk about the subject in their own words (Boeije, 2014). The questions in the topic list are general. However, because the participants were selected for their activities in the policy field of AGRIFISH, the answers and experiences are related to that field. If an actor also participates in other policy areas, it must be kept in mind that it can influence their responses.

The goal of conducting interviews is to gather the perceptions of those participating in the negotiations for the selected case and measure the effect of changing the decision rule on participants'

behaviour during negotiations. In a coming section, the theory is operationalized to make this possible. Analysing their perceptions will allow the researcher to make statements about the effect of changing the decision rule on the behaviour of member states' representatives during negotiations in the Council of the European Union.

Then, the intention was to supplement this data with documents such as minute meetings of two selected decisions. These documents would be concluded under the same presidency and would be the same type of legislative act. The only factor that would thus differ would be the independent variable, the decision rule: QMV or unanimity. These documents were essential for a chronological analysis and hence for adequately investigating the sequence of negotiations to confirm or disprove the third expectation. The only available documents for the previously selected two decisions were too general. After an inquiry at the Permanent Representation of the Netherlands to the EU, it turned out that these documents were not available because they could only be shared according to the Council of the European Union. Requesting them would involve initiating a legal procedure for which there was no time. Hence, no supplemental document analysis was done for this study.

### 3.3. Method of analysis

Within this study, a comparison will be made between negotiating under unanimity and Qualified Majority Voting. The voting procedure is the independent variable, and the dependent variable will be the behaviour of actors. In comparative work, it is challenging to avoid measurement errors. With an in-depth analysis of the evidence through the use of process tracing, validity and reliability can be improved (Tohskov, 2016). Within-case research does not look at a few variables for multiple cases but is concerned with multiple observations within a single case. Process tracing is the preferred method of conducting within-case research in the social sciences. The main goal is to analyse the data to uncover events as if they happen in a sequence. These sequences concatenate into a causal chain on which the hypothesis can be tested.

Process tracing is “*a research method for tracing causal mechanisms using detailed, within-case empirical analysis of how a causal process plays out in an actual case*” (Beach, 2017, p.1). It can simply put be divided into three main phases. The first phase is finding theoretical components that can link cause and outcome. The second phase is analysing the data in light of the theory and the third phase is comparing the evidence of that single interview to interviews that are causally similar to enable generalization.

However, it is first necessary to delineate what is traced. According to Beach (2017), it involves more than producing a thick description of the cause and effect. It is more about “*the theoretical literature to gain clues about potential mechanisms that could link a cause and outcome together.*” (Beach, 2017, p.1). In this thesis, it is the goal to find the existence of a mechanism, and therefore the observational within-case empirical material will be analysed, also known as mechanistic evidence.

There are two takes on mechanistic evidence: a minimalist understanding where the mechanism is not theoretically unpacked and a systems understanding where this causal process is theoretically elaborated upon. The latter allows for stronger causal statements on how these processes worked in real life (Beach, 2017). The causal model accompanying a systems understanding consists of ‘entities’ engaging in ‘activities’. Entities can, in this case, be identified as actors and the activities as negotiating. The model drawn up by Beach (2017) illustrates this kind of model best:

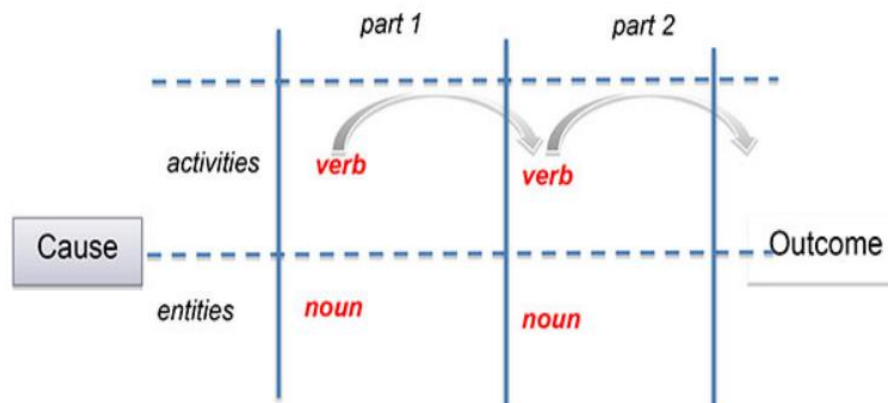


Figure 1: causal model of entities engaging in activities

The mechanistic evidence that makes up the causal mechanism can exist in four identifiable forms. It is empirical evidence left behind by the actors engaging in a causal process. Finding one of these four types does not immediately confirm the theory, but it increases the confidence in the existence of the causal mechanism. (Beach, 2017).

Patterns indicate statistical patterns in the evidence. An example could be that under QMV, statistically, more countries vote against a proposal than under the unanimity rule. Another example could be that arguing is more present in the negotiations when the decision rule is unanimous. Sequences are concerned with the chronology of events. In this case, a sequence could be “*a pre-negotiation stage of co-operative exchange can be followed by distributive bargaining. Deliberation might take place when discussing issues of implementation in a post negotiation stage*” (Warntjen, 2010, p.671). A change in this sequence between the two decisions under analysis could mean an effect exists. Traces are small bits of information that provide information about a causal mechanism when found. It was identified before that pointing to the rank of an actor is an indication of bargaining. The actor speaking those literal words is an example of a trace. The last type of mechanistic evidence are accounts, and they concern the content of empirical material. Examples are meeting minutes about the negotiations.

### 3.4. Operationalization

For this study, semi-structured interviews are conducted. A topic list was made to guide the researcher through the topics and variables that needed to be discussed. This section will elaborate on these questions, why they were asked and which of the expectations the question intends to answer. The complete topic list can be found in appendix 7.2.

Each interview starts with a brief introduction in which the purpose of this study is explained. Part two of the introduction focuses on the respondent, who are asked to talk a little about their background and current work. Next, questions about council presidency, state institutional design and media attention are asked. As it is a semi-structured interview, they will not per se be asked in that order. Another question that is asked concerns the ‘bindingness’ of a decision. They are asked to establish if the change in the independent variable is the only explanation for the behaviour change or thus the dependent variable.

Then the pivot is made towards negotiating under the different decision rules. In order to confirm or disprove the first expectation, that changing the decision rules influences the behaviour of member states’ representatives during negotiations, several questions are asked about this change. The two most general questions that function as an indication of this expectation are “*Does the fact that the decision rule is QMV influence the way actors negotiate?*”. The same question is asked for unanimity. The interviewees’ answers to these questions can be compared to establish the proposed effect of change in behaviour and to let the participants sketch the general picture of behaviour during the negotiations. To supplement this question, the following is asked: “*Do they negotiate rationally or more based on their preferences?*”. As QMV is the standard voting rule, more questions are asked about unanimity voting to gather more data.

In order to answer the second and third expectations, both of the general questions are followed by a follow-up question, namely ‘*How do they negotiate?*’. The theory made the difference clear between arguing and bargaining for the second expectation about the dominant negotiation method. Letting the respondents describe the behaviour during negotiations, in conjunction with that theory, allows for differentiation between arguing and bargaining. Because asking to describe the behaviour for each decision rule, it is possible to identify the dominant negotiation method under each decision rule.

The posed follow-up question is also used to gather data about the third expectation “*The sequence of negotiations of a decision taken under QMV will see bargaining tactics in an earlier stage in the negotiations than a decision taken under the unanimity rule.*” In Table 1 in the theoretical framework, modes of negotiation were included, such as ‘*dialogue*’, ‘*elaborating on each other’s views*’ and ‘*signalling earlier made promises*’. The question ‘*How do they negotiate?*’ lets the respondents describe these types of behaviour and allows for identification. Combining that with the question ‘*do they do it in an early stage in the negotiations or in a later stage?*’ makes it possible to put these modes of negotiating in chronological order and answer the third expectation.

On the following page, Table 2 presents an overview of the expectations, the variables and the values that go them. It also includes the questions used for answering the expectations.

**Table 2: Variables, values and indicators for answering the expectations**

	Expectation	Variables and values	Indicator: Questions
1	<i>“Changing the decision rule from unanimity to Qualified Majority Voting has an effect on the behaviour of member states’ representatives during negotiations.”</i>	Decision rule: QMV/Unanimity	How does the fact that the decision rule is Qualified Majority Voting influence the way actors negotiate? / How does the fact that the decision rule is Unanimity influence the way actors negotiate? / How often does it happen that a decision gets taken under the unanimous decision rule? / How does the change towards unanimous decision making influence the way actors negotiate
		Behaviour: Preference driven/Rational	Do they negotiate rationally or more based on their preferences?
2	<i>When a decision is taken under QMV, bargaining tends to be the dominant negotiation method present during the negotiations, while arguing is more present under the unanimity rule.</i>	Type of negotiating: Arguing/Bargaining	How do they negotiate?
3	<i>The sequence of negotiations of a decision taken under QMV will see bargaining tactics in an earlier stage in the negotiations than a decision taken under the unanimity rule.</i>	Sequence of negotiations: Early stage/Middle stage/Later stage	Do they do it in an early stage in the negotiations or in a later stage? / Is this early in the negotiations or in a later stage?
		Mode of negotiating: Deliberation/ Distributive bargaining/Integrative bargaining/Norm-guided behaviour/Rhetorical action	How do they negotiate?

### 3.4.1. Visualization of the results

To quantify the results, co-occurrences between pieces of evidence will be counted. All the data will be coded in Atlas.ti. A piece of data can receive a label for the type of decision rule (QMV or unanimity) and a label for the type of negotiating (arguing or bargaining). When a piece of data receives a label for both, it thus co-occurs. The goal would then be to determine which type of negotiating occurs more under which decision rule so that the expectations drawn up in the theoretical framework can be confirmed or rejected.

A way of visualizing this is by using a Sankey diagram. In the following section, a hypothetical example is given. On the left, two concepts are shown: 1 and 2. On the right, two phenomena are shown: A and B. Concept 1 co-occurs with phenomena A three times and with Phenomena B twice. Concept 2 co-occurs with phenomena A twice and with Phenomena B four times. The result in a Sankey diagram looks as follows:

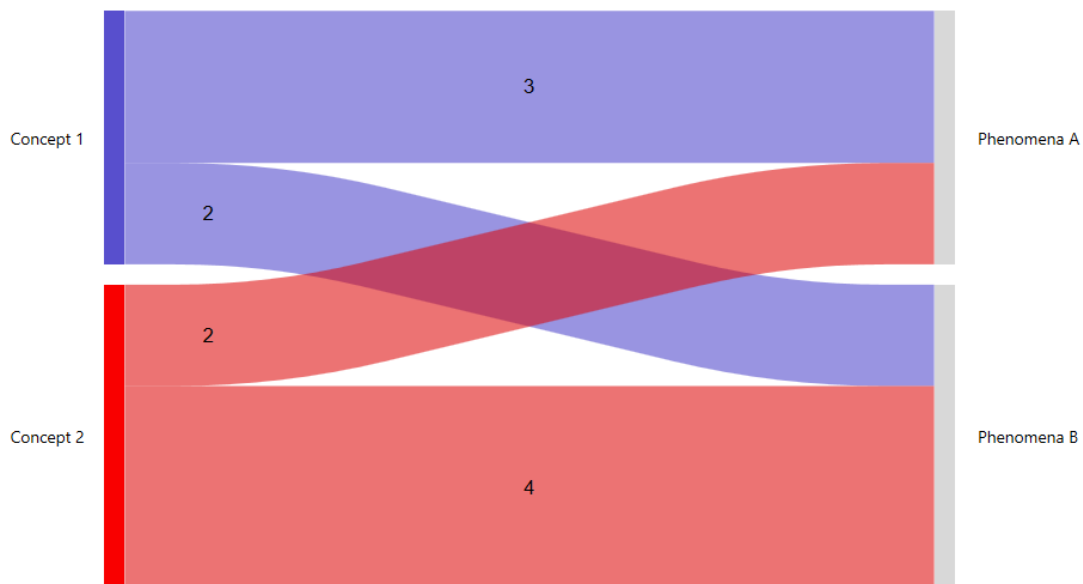


Figure 2: co-occurrences in a Sankey diagram

The width of each line corresponds to the actual value. The line of three co-occurrences between Concept 1 and Phenomena A is thicker than the co-occurrence line between Concept 1 and Phenomena B. At the same time, the Sankey diagram can show how many times Phenomena A existed out of Concept 1 and how many times it did out of Concept 2. This allows for a visual comparison. In this example, phenomena A co-occurred more with concept 1 than with concept 2.

This way of visualizing the evidence is helpful for this thesis because multiple times it looks at how many co-occurrences there are between a decision rule and the type of negotiating. Visually representing that there is a thicker line, and thus more co-occurrences, between unanimity and arguing than unanimity and bargaining could function as proof that the second expectation is confirmed. It could also be helpful to visualize what type of negotiating occurs during which stage of the negotiations and which type of negotiation it is that ‘flows’ from the type of negotiating to the stage.

### 3.5. Control Variables

In the previous chapter, several aspects were brought forth that can possibly influence behaviour during negotiations. These variables are pooling or delegation of authority, state institutional design, media attention and council presidency. Besides these, another factor needs to be identified as it might influence the outcome of the study. This is the type of legislative act.

Within the Theoretical Framework, many topics are touched upon. This is prior knowledge, which has three functions, according to Blatter and Haverland (2012). First, it specifies and conceptualizes the Independent Variable (IV) and the Dependent Variable (DV). Second, it shows the possibility of a relationship between them. Prior knowledge's third function is identifying Control Variables (CV). Blatter and Haverland (2012) explicitly state that it must be demonstrated how the CVs are taken into account. The theoretical framework has identified them. Although it is impossible to control all of them, only the relevant ones must be selected (Blatter & Haverland, 2012; Toshkov, 2016).

The first control variable concerns whether authority over the decision was pooled or delegated. In the theoretical framework, it came forth that authority is pooled within the Council of Ministers, as no permanent body or representative is making the choices. The Member states themselves take the decisions. Since all interviews are held within the Council Configuration of AGRIFISH, the authority was pooled.

The second control variable is twofold. As Tallberg (2010) stated, the architecture of the presidency of an organization can produce different powers and incentives. Within the Council of Ministers, the chair rotates between states. This rotating design produces benefits that all seek to acquire, for example, log-rolling. Besides that, the chair holds agenda-setting power and has domestic preferences influencing him or her. Therefore, it is important to know the view of the interviewees on this role. The question is taken up in the topic list.

The third and fourth variables that must be considered are the state institutional design and media attention. The former refers to the fact that some states are accustomed to delegating authority to another level, which might influence their behaviour during negotiations on the supranational level. The latter refers to the possibility that an issue might be politicised when there is much media attention. During the interviews, it is thus essential to ask about these topics to establish the interviewees' opinions on these topics.

Another control variable is the bindingness of a decision taken during the negotiations. In the EU treaties, several types of legislative acts are defined, some of which are binding, and some are not. These are regulations, directives, decisions, recommendations, and opinions. The fact that a decision can be binding might influence the negotiations. Therefore, it is vital in the interviews to ask the participants a question about this.

### 3.6. Pitfalls and limitations

The pitfalls of studying decision-making in the Council of the European Union are explained in detail by Niemann (2008). He states that it is essential to distinguish between co-operative bargaining and arguing. The co-operative character is made clear in his simple example: bargaining is “*If you give us X, we’ll give you Y*” (Niemann, 2008, p.39). Arguing is “*X is the best alternative, because of argument Z*” (Niemann, 2008, p.39). Seeking consensus thus has not per se have to be arguing. Other pitfalls are drawing strong inferences on whether actors give a reason for their arguments and whether they change their position. Changing one’s mind is the core of arguing. However, it is also competitive bargaining since the actor wants to enlarge his share of the pie in this form. It is therefore essential to look at the credibility of threats and the ability to find common ground, to better distinguish between arguing and bargaining.

#### 3.6.1. Differentiation between arguing and bargaining

Niemann (2004) discusses five ways to differentiate between arguing and bargaining. The first type of evidence are statements actors make during the negotiations and how they characterize them. How arguments are presented captures the mode. Making one and substantiating it with the rank that the actor holds, as to add authority in a non-discursive manner, points to bargaining. Refraining from doing so is a more argumentative form of negotiating. Thus, questions about pointing to rank or seniority are asked.

Second, whether an actor shows consistency in further negotiations is a good indicator, according to Niemann (2004). Being consistent is a sign of argumentative negotiating. Not being so is bargaining. Tracking the actor’s argument over time is a valuable indication of the decision-making mode. Questions about changing one’s mind are thus asked.

Third, arguing is the process of convincing negotiation partners that one's argument is the better argument. When over time, an actor starts adopting the arguments of another, it is an indication of arguing. This type of persuasion is more likely to appear in settings where there is a shared ‘life world’. This is more common in negotiations where actors meet frequently and in a more permanent composition. An example of such a shared life world are the negotiations at COREPER or the Special Committee on Agriculture (SCA). Questions about socialization are hence asked in the interviews.

Fourth, it is essential to try and reconstruct the actor’s motivations. However, Niemann (2004) states that it is difficult to distil an actor’s motivation solely from the argument they make. Checking them against position papers, meeting summaries, and other documents might shed light on this. The best way, however, is through interviews. In order to substantiate the evidence found in the available data for this thesis, it will be tested against the qualifications of multiple scholars to determine whether or not it qualifies as one of the forms of arguing or bargaining. Most notably, however, is that during the pre-negotiations, motivations can better be distilled from the arguments presented. This negotiation stage revolves around a conflict of norms instead of interests. Bargaining about norms is difficult to do.



Interviewing thus allows to establish some baseline of the actor's their argument, and allows to review them in a later stage against new arguments made. To operationalize this, it will be asked whether or not actors change opinions and when.

The fifth and final point that Niemann (2004) makes is that looking at alternative explanations for actors to participate in arguing or bargaining is crucial. He states that coercion or side-payment are bargaining tactics and can occur at multiple stages. Within the Council, this process is known as log-rolling or the exchange of favours. It often occurs in relation to the council's presidency. It is therefore important to review the aspects of the council presidency, which has been done in the theoretical framework. Returning to the main point: it is essential to search the data for alternative explanations that deviate from expected norms.

### 3.6.2. Limitations

There are several limitations to this research design. First of all, through the conduction of interviews, quite a lot of data is gathered (Alsaawi, 2014). All this data has to be transcribed, and that is where an issue lies. The researcher might miss-interpret what was meant by the respondent and give more weight to specific answers. The weight given can be influenced by normative principles, which can vary between researchers. Also, data labelling is subject to interpretation (Alsaawi, 2014, Creswell & Poth, 2016). In order to limit the interpretation and heighten replicability, the framework (table 1) used to analyse the data is given and elaborated upon. In the section of the analysis, it will be motivated as to why certain pieces of data are seen as evidence and why a label is given. This is done to heighten the replicability of the research.

It is also essential to account for a certain degree of personal biases of the researcher (Noble & Smith, 2015). Although it is tried not to be biased in this study, one can never be sure that it has not influenced the research in some way. To limit the effect, it was tried to label all the data as objectively as possible. The work from Naurin (2009) and Warntjen (2010) was used to construct the labels. Sampling bias was tried to be eliminated by requesting interviews with all member states currently in the European Union (the time of conducting interviews is May and June of 2022). All the respondents that have replied to the request were interviewed. For this study, there were responses from all parts of the European Union, which helped in negating possible geographical biases. Reliability in terms of respondents could be difficult as the same respondents might not react to another interview request from another researcher who wants to replicate this study. The topic list is provided in the appendix (7.2), so other researchers can ask the same questions. The analysis will elaborate further on the labelling of data, and the results are supplemented with participants' accounts to showcase the findings' reliability.

### 3.7. Research strategy

This analysis will unfold as follows. For this thesis, interviews were conducted. The chapter on data selection and the methods described how participants were approached, namely by entering the search

query “*permanent representation of [...] to the EU*” in google. Every member states of the European Union was approached. A total of 31 emails were sent because, for certain countries, there are multiple people active in the policy field of agriculture. Out of these 31 emails, eight persons reacted. With these eight people, interviews were planned. Unfortunately, one respondent did not show up. The other seven interviews were held online. The jobs ranged from working party attachés to SCA spokespersons and a deputy-ambassador. The shortest interview lasted 31 minutes and 7 seconds, and the longest 57 minutes and 44 seconds. They came from northern, eastern, southern, western and central Europe. Eastern and Central Europe were a bit more represented than the other regions.

Experiences ranged from one and a half years of experience negotiating in council meetings to five or six years. Background and previous experience differed from being involved in the policy field of agriculture for over 20 years to being chair during their country's presidency or having worked for the commission.

The interviews were transcribed. All interviews are entirely made anonymous. If the respondent stated his or her country of origin, it was transcribed as [Country]. The same was done for names and other retraceable data. The names of the documents were coded in a way understandable to the researcher but not retraceable to the interviewee. In appendix 7.1, a table is taken up with a brief overview of all the interviews. The numbers in the table correspond with the numbers between brackets (e.g. [1]) behind the quotations in the analysis and the chapters concerning the results. Within the transcript, the Interviewer is indicated with an ‘I’ and the respondent as ‘R’.

The transcribed files will be uploaded to Atlas.ti, a program for qualitative data analysis. The program allows a researcher to label segments of data. For this thesis, a total of 41 codes were created. The entire codebook can be found in appendix 7.3. The codes used for labelling the data found their foundation in theory gathered for the theoretical framework. It is, however, also a process of learning on the spot. An example of this is the control variable of media attention. In the theory, it was gathered that it is important to determine whether a policy field is politicized, meaning that member states take a firm position on an issue because it is important to them, their constituents or the economy. While interviewing, it came forth that besides media attention, attention from the capitol city also exists and influences how actors negotiate. This concept concerns the amount of attention the capitol, or thus the government, has for the policy field. Although it was not beforehand thought of and included as a control variable, it became apparent that it was an important concept and thus included in subsequent interviews and the topic list. It also received its code-label in Atlas.ti.

The codes were categorized into nine categories, with several sub-categories. These categories are Control variables; Decision rule, Behaviour; Mode of negotiating; Negotiation phase; Sequence of negotiating; Type of decision; Type of negotiating; and Other. The biggest category was that of the control variables since several labels were applied, and thus codes were created, that concerned these questions.

The topics were during the interviews probed with a question. In the coding process, it did not mean that the part following the probing question was directly related to the question. Sometimes a question was asked about unanimity, on which an answer followed that concerned voting under a Qualified Majority. An example of this is the following quote:

*“I: and when the voting is unanimous, are other actors inclined to create a common solution or are they trying the best deal for themselves?”*

*R: they always try to get the best deal for themselves, that is a part of the negotiation. The way you difference, is that if you see that a QMV is needed and you see, then you tend keep more eye on what subtle change in your opinion might have for effect on the outcome of the voting procedure.” [4]*

While the respondent is answering the question, it is clear that the segment does not concern unanimity, but Qualified Majority Voting. In the coding process, this part has thus received the label QMV, among other labels.

As was said earlier, the specific topics on the topic list were probed through questions. This allowed for identifying the topic in the transcript and which labels would apply to the coming answer. Parts of the transcripts can also receive multiple labels. They received that when the topic touched upon two different types of codes. The following section is such an example. The respondent was asked whether he or she has experience negotiating under the unanimity rule. The response was:

*“Only for the council conclusion. But otherwise it is things like the budget. So that would not be. Conclusions have to be unanimous and that is a big part of the SCA. Other negotiations are mostly QMV.”[7]*

The codes applied to that specific segment thus are: ‘Decision rule: QMV’, ‘Decision rule: Unanimity’, and ‘Negotiation phase: SCA level’. The parts that were more difficult to code were the parts that concerned the mode of negotiating. Elster already predicted this in 1991. In order to do it consistently, a framework was created during the operationalization (Table 1). This framework was used to consistently label the data segments with the correct code. The label that was most easy to apply was: ‘Mode of negotiating: Norm-guided behaviour’. This mode of negotiating appeared several times and in an unambiguous manner. Norm-guided behaviour was identified in the framework as using internalized norms as a baseline. The following segment shows that this was the case:

*“So there are these rules that you kind of follow when you're a president or just before becoming a president, kind of that you stay neutral in taking positions” [3]*

What was harder to distinguish between was deliberation and integrative bargaining. The following two segments received one of those labels:

1: *“Then you see that there is little congregations of Member states, certain positions are being motivated to join a certain camp” [6]*

2: *“And if for example you say I want 100% a certain price and then you see there is no qualified majority to be reached, then you are much more likely in a qualified majority to proceed and say okay if I get 80% of what I tried to reach, does this automatically mean that there will be a qualified majority.” [2]*

In both cases, the actors try to reach a consensus. However, quote 1 is more aimed toward the persuasion of others, while quote 2 is more focused on trying to get the best deal for himself while searching for the ideal compromise and with some reciprocity. The motivations and arguments for the labels applied came from the framework (Table 1). Because of that, quote 1 received the label ‘Mode of negotiating: Deliberation’ and quote 2 received the label ‘Mode of negotiating: Integrative bargaining’.

The same goes for rhetorical action and distributive bargaining. The first is aimed at persuading, but without giving anything back. Therefore it also can look like deliberation. Within rhetorical action, however, there is little room to give in. Distributive bargaining revolves more around maximizing one’s own gains and pressuring via threats and demands. Quote 1 was labelled as distributive bargaining, quote 2 as rhetorical action:

1: *“We will focus so much energy to try to change one word. Because that will be crucial whether we can support some type of project that we have in [Country] that is important to us. [1]*

2: *“So you have to be very specific and very clear why you can't take certain positions and why you think that decision is necessary in order to motivate as much people as possible to join your camp.” [2]*

All these quotations exemplify how the data was labelled in accordance with concepts drawn up in the theoretical framework. The following chapter will interpret the evidence in light of the three expectations that were drawn up. One by one, these three will be discussed. In the conclusion, a definite answer is given to the research question.

## 4. Results

This chapter goes towards answering the expectations and research question. The structure is as follows: each expectation will be answered individually and ends with a sub-conclusion. A definitive answer to the research question is given in the chapter that entails the conclusion. The results are laid next to the literature gathered in chapter 2 to see whether the answer to the research question confirms or disproves the theory. That chapter ends with recommendations for further research.

### 4.1. Expectation 1

The first expectation entails that there is an effect present. This expectation came from the literature, in the works of Risse (2005) and Naurin (2009). Nevertheless, these studies did not control on the policy area, whereas this study did. The goal was then to see if an effect is still present when the policy area stays the same. The first expectation was:

*Changing the decision rule from unanimity to Qualified Majority Voting has an effect on the behaviour of member states' representatives during negotiations.*

The respondents were asked whether or not they could notice differences between negotiating under unanimity and QMV. It could be identified that when the decision rule shifts towards QMV, actors start 'counting' in the words of one respondent. This behaviour of counting came forth during multiple interviews. The most notable example was:

*"What you see during the discussion is that you notice that there is more countries that are counting while having the discussion. So during the meeting there are people who are like putting in the results already into their little voting calculator to see how much percentage is being gained." [6] ~ (also: 1)*

This effect of starting to count when the voting rule is QMV is rational behaviour. It was described that actors are looking if it is possible to form a blocking minority, who is for the resolution, and who is against it. On the other hand, under unanimity, more emotional arguments are thrown into the discussion or preferences from Capitols.

*"I see that in the unanimous decision forming there is much more room to go for emotional discussion, trying to be I can't really accept this because my Capitol says no" [2]*

A Sankey diagram can visualize this phenomenon. On the left are two codes for the decision rules: Unanimity & QMV. On the right are two codes for behaviour: rational or preference driven. Preference-driven also entails making emotional arguments. The numbers on the lines indicate how many occurrences there were of a piece of evidence being labelled as QMV or unanimity, and also labelled as rational or preference-driven:

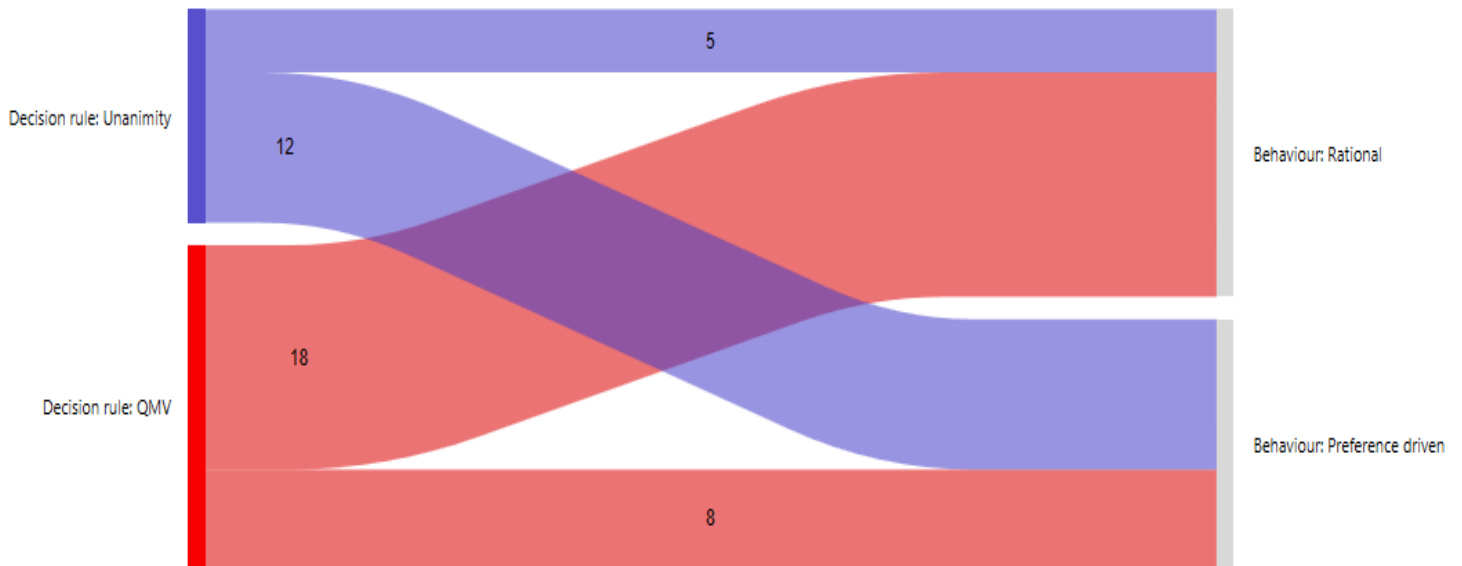


Figure 3: co-occurrence Decision rule & Behaviour

To briefly answer the first expectation: an effect of changing the decision rule from unanimous decision making to Qualified Majority Voting is that the behaviour of actors becomes more rational. They are trying to calculate which proposal has a qualified majority or if it is possible to form a blocking minority. On the other hand, negotiations that were held under the unanimity rule were much more motivated by emotional arguments or preferences of their national governments.

#### 4.2. Expectation 2

Because it was established that an effect is present, it is possible to elaborate and research this effect even further. Being more rational while negotiating under QMV is a broad description of behaviour. That is why negotiation theory made a differentiation between arguing and bargaining. This second expectation thus finds backing in the work of several scholars, most notably Naurin (2009) and Warntjen (2010). However, as stated previously, those studies focused on multiple policy areas, whereas this thesis keeps the policy field a constant. It could therefore be tested if it was still the case, which was the purpose of chapter 4.1. It is now time to dive deeper into this effect, and therefore the second expectation was:

*When a decision is taken under QMV, bargaining tends to be the dominant negotiation method present during the negotiations, while arguing is more present under the unanimity rule.*

This topic was probed with questions that asked the respondents to describe the behaviour of other actors under one decision rule or the other. The answers were compared to the framework (Table 1) to identify which form of negotiating was present and, if so, which sub-form: deliberation, rhetorical action, norm-guided behaviour, integrative bargaining or distributive bargaining. Which sub-form was identified concerns the third expectation. This expectation focuses on which form of negotiating is more dominant under which decision rule.

Sometimes it was easier to identify that the actor was talking about behaviour representing bargaining. Other times it was more complex, and the framework had to be used to compare whether it was arguing or bargaining or if it even qualified as evidence for one of both. As was said before, it can be hard to identify the forms. It was, however, not impossible. The first quote showcases bargaining behaviour, while the second quote identifies that an actor can be subject to bargaining behaviour from another actor:

*1: "Obviously you try to get the best out of for a country on the basis of the mandate you pursue" [5]*

Arguing tended to focus more on the arguments an actor makes and not per se on the logic of tit-for-tat. The part of motivating positions not only comes from actors from inside the council. It stretches even further due to the co-legislative functions that exist within the European Union:

*"And then maybe you'll have to ask to the commission how we interpret this and that. And they will tell you yeah in reality you are supposed to look at this way." [4]*

A word that could potentially be a clear indication of arguing is 'motivate'. When looking at the framework, the word motivate corresponds with the modes of arguing identified for deliberation. This word was used several times, for example:

*2: "why you think that decision is necessary in order to motivate as much people as possible to join your camp." [2] ~ (also: 6)*

Arguing exists in multiple forms, and not every position is motivated to find reasoned consensus. Positions can be stated in such a general manner that other actors cannot distil what they want:

*"Sometimes also happens that member states are taking so general position that you can figure out what is going on." [6]*

The challenge of this expectation was to identify what form of negotiating is more common under which decision rule. The same way of visualizing this effect is used as was for the first expectation. Overlap is sought between evidence clearly stating the decision rule and a type of negotiating. The result looks as follows:

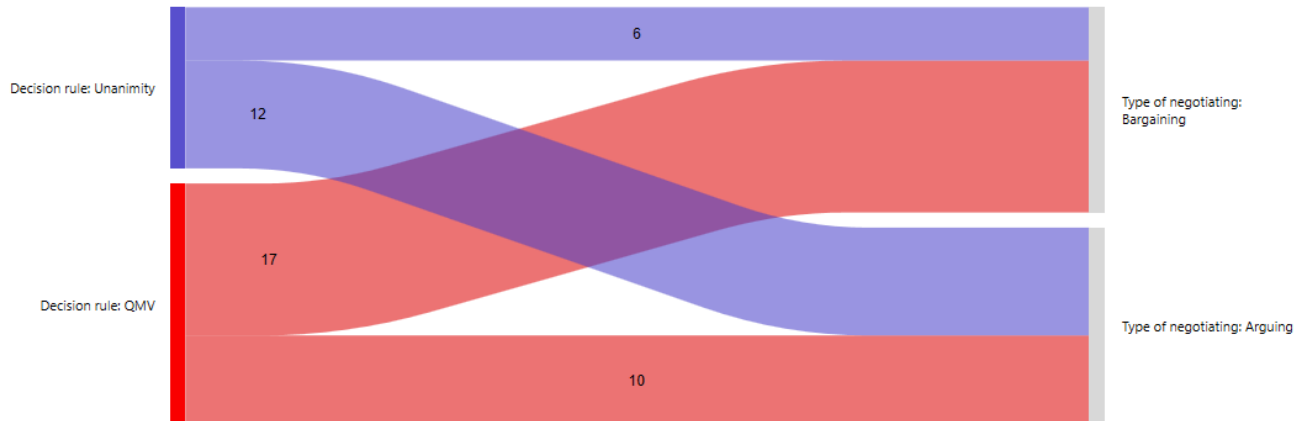


Figure 4: co-occurrence Decision rule & Type of negotiating

It is hard to confirm or disprove the second expectation firmly. Based on the work of the other authors and these findings, one could confirm that bargaining is more common under Qualified Majority Voting and arguing more under the unanimity rule. It is looked at that when a respondent talks about unanimity, he or she describes arguing or bargaining. Then one can see that, for example, there were 27 occasions identified of negotiating under QMV, of which 17 described bargaining and 10 described arguing.

To briefly answer the second expectation, *“When a decision is taken under QMV, bargaining tends to be the dominant negotiation method present during the negotiations, while arguing is more present under the unanimity rule.”*: yes, when a decision is taken under the Qualified majority rule, bargaining tends to be more present, while arguing is more present under the unanimity rule. However, it must be noted that the margins are thin, and the pool of respondents is small.

### 4.3. Expectation 3

Warntjen (2010, p. 271) wrote: *“For example, a pre-negotiation stage of co-operative exchange can be followed by distributive bargaining. Deliberation might take place when discussing issues of implementation in a post-negotiation stage. Alternatively, different modes might be at work depending on the context.”*. The aim of the third expectation is thus to establish a sequential time frame in which it was able to step by step look at the negotiation phases and identify the mode of negotiating present:

*“The sequence of negotiations of a decision taken under QMV will see bargaining tactics in an earlier stage in the negotiations than a decision taken under the unanimity rule.”*



Interviews would be used to identify the forms and analyse them next to the framework presented in Table 1. For this thesis, these were the findings:

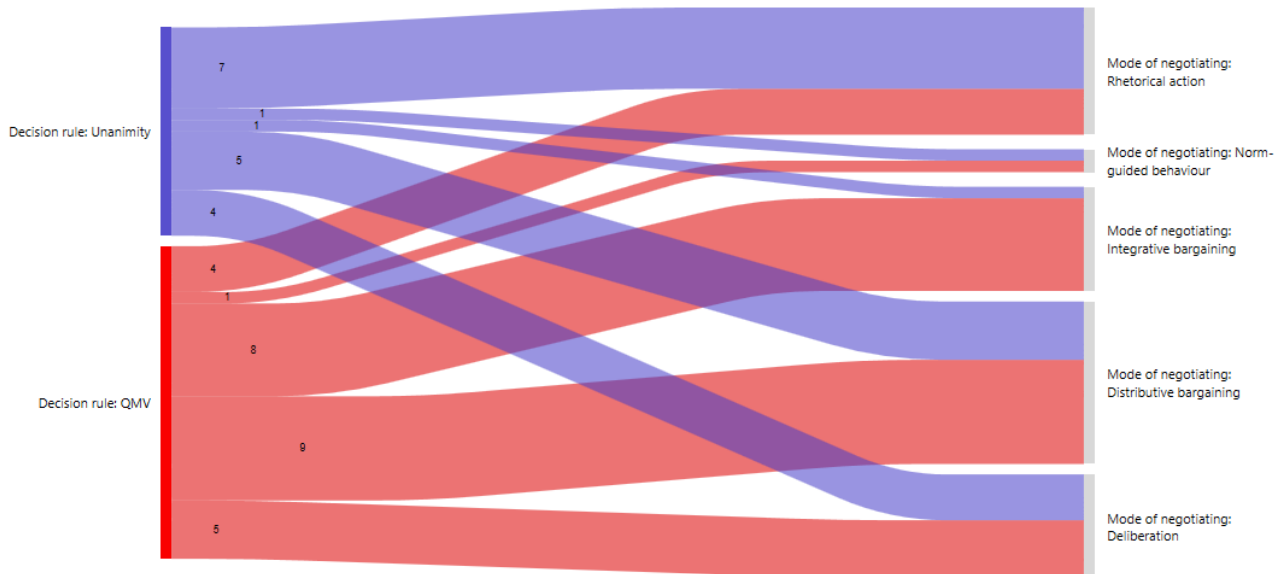


Figure 5: co-occurrences Decision rule & Mode of negotiating

Most notable here is Norm-guided behaviour. It was not found that often in combination with a mode of negotiating. Norm-guided behaviour was found more in combination with the control variable Council presidency, but this combination will be further elaborated on in another section. The literature noted that norm-guided behaviour entails trying to reconcile national positions to benefit the European interest. That could be identified in the following quote:

*“We tried to be helpful and even try sometimes to be a screen between the capital and what we are saying in the meeting, in the SCA. Sometimes the capital has pushed position that then we have to come back to the capitol saying this position is not operational.” [7]*

Then, the goal would be to supplement this data with documents such as minute meetings of two selected decisions. These documents would be concluded under the same presidency and would be the same type of legislative act. The only factor that would thus differ would be the independent variable, the decision rule: QMV or unanimity. As was described in the data selection, it was not possible. This section will talk about the results that were found.

At some points, it was possible to identify the stage and a co-occurring type of negotiating. There are too few pieces of data to be used as proper evidence, but the result looks as follows:

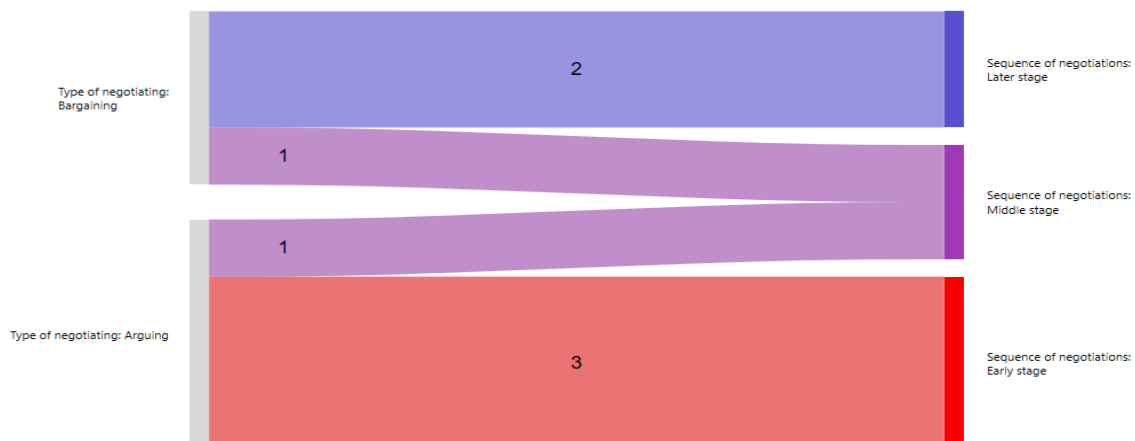


Figure 6: co-occurrences Type of negotiating and Sequence of negotiating

This is an initial indication that bargaining tends to be more common later in the negotiations when it is ‘crunch time’ in the respondents' words. Further investigation is, however, needed to make statements about these initial findings. Another note to go with this Sankey diagram is the following. Respondents indicated that from a very early stage, it is known what the decision rule will be:

*1: “Normally if they are going to move for unanimous decision making than it is explained before the start of the attaché meetings.” [4]*

The treaty of Lisbon provides that all decisions are taken through QMV unless the treaty provides otherwise. One respondent knows that it happens most of the time at the beginning of the negotiations, but it seldom happens:

*“I haven’t seen it, but most of the time it is at the starting of the point. This is also, if I say it is like four five times in the time that I have been here. It is especially so because I am in a very technical work field.”[2]*

Switching the decision rule can also happen the other way around, but that is even rarer. The baseline for a council conclusion was unanimity, but that was not possible according to an interviewee, and they switched to Qualified majority, although also changing to presidency conclusion:

*“And what I see now is that the other way around I have seen it happening only once, so that they go for a council conclusion, and that was on the discussion about food labelling, that took place during the German presidency and then when it was impossible to reach unanimity that they then changed the decision back to not reaching council conclusions but a presidency conclusion, which only needs a qualified majority vote.” [2]*

Also, because it was hard to establish a time frame, it was not possible to scientifically determine that bargaining tactics are more common when a formal decision is about to be taken.

To briefly answer the third expectation, “*The sequence of negotiations of the decision taken under QMV will see bargaining tactics in an earlier stage in the negotiations than the decision taken under the unanimity rule*”: there is a slight indication that this could be the case. However, this research design and the gathered data cannot confirm or disprove this expectation with confidence.

#### 4.4. Other findings

Besides testing the three expectations, some other topics seemed to influence the behaviour during negotiations. This sub-chapter briefly discusses these findings.

What also came forth on the subject of attention was capitol attention. A country can be ‘capitol driven’, meaning that much of what is being said during the negotiations comes directly from the ministry or national government back home. The amount of attention differs per country, as some countries can be described as farming countries, while others are less dependent on that. This also determines more or less whether the policy field is prone to politicization for a country. It must, however, be noted that not all countries of the European Union were interviewed, and it was thus not possible to determine for all countries how vital this specific policy field is. It is thus dependent, for some part on cultural differences.

Next up is the topic of the presidency. A lot of data was gathered on the aspects of this role. This role is most subjected to norm-guided behaviour during the negotiations. How actors give meaning to the presidency depends on the person and country fulfilling the role. Smaller countries also indicate that others give more weight to their opinion. However, being a small country can also be problematic during the presidency, but overall the opinions sway towards the rotating presidency being a positive thing. Norm-guided behaviour for the presidency entails that in the period leading up to the presidency, one becomes less vocal on specific issues and has to be neutral. The agenda-setting power that Tallberg (2010) described in the theoretical framework also came forth. The following quote captures these aspects best.

3: “*So there are these rules that you kind of follow when you're a president or just before becoming a president, kind of that you stay neutral in taking positions because you're the one who was tabling them*”[3] ~ (also 1, 2, 5)

Another important finding is that the type of decision, ‘binding’ or ‘not binding’, influences the negotiations, and almost every respondent noticed it. The question was asked if they could notice a difference between decisions with a binding implementation and a non-binding implementation. If they noticed a difference, they were asked to describe what they noticed. One respondent reacted with:

*“Well there is a difference of course. As I said the discussions in terms of binding regulations are more violent if they are hurting the systems of the countries this is obvious.” [6] ~ (also 2, 3)*

The described behaviour of actors during the negotiations on binding or non-binding decisions could be labelled as arguing or bargaining on certain occasions. The co-occurrences were measured in the same way as in the previous sections about the decision rule and type of negotiating. A Sankey diagram is again used to visualize these findings:

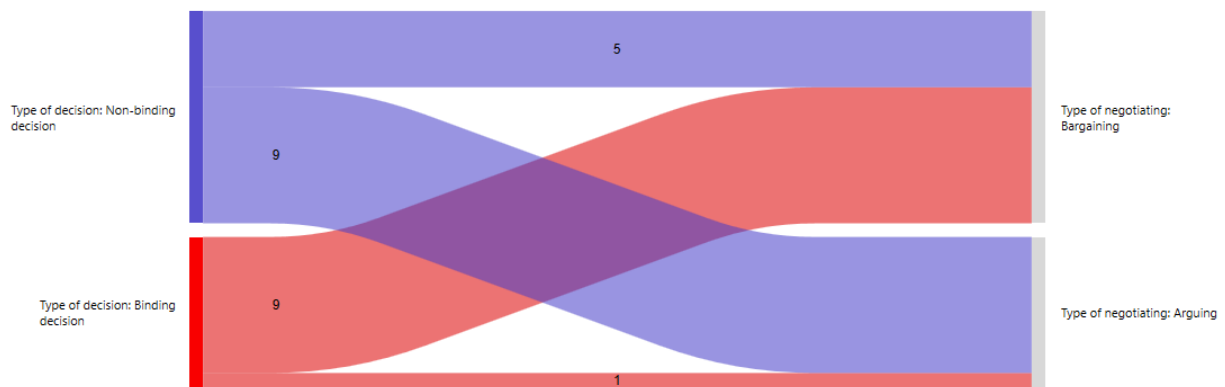


Figure 7: co-occurrences Type of decision & Type of negotiating

Because the question of whether or not a decision was binding was not the main variable of this research, it was not elaborated upon much. Therefore, these results cannot be interpreted with full confidence that significantly more bargaining is present under binding decisions than non-binding decisions. Further research is needed in order to identify an effect.

## 5. Conclusion

The research question states: *“What is the effect of substituting unanimity with qualified majority voting on behaviour of member states’ representatives in meetings of the Council of the European Union?”*. The answer to this research question is as follows: The effect of substituting unanimity with qualified majority voting is that representatives behave more rational during negotiations. The negotiating type that is most common under QMV is bargaining. It was not possible to determine at what stage of the negotiations a type of negotiating is more common.

The goal was to answer this question with three expectations gathered from the theory. The first expectation is confirmed because an effect could be noticed. During the interviews and the analysis, it became apparent that actors start to behave much more rationally under QMV. Deliberative Intergovernmentalism describes rational behaviour as ‘the logic of consequences’ and is one of two forms present in negotiations (Puetter, 2012). They calculate whether a proposal has a Qualified Majority or a Blocking minority and look at what the larger Member states are doing as they have more relative voting power. When the decision rule is unanimity, actors are much more able to express preferences from themselves and their respective Capitols. This is the other identified form, ‘the logic of appropriateness’ (Puetter, 2012). An example of this behaviour was that a country could not comply with a decision as it would hurt farmers back home. As they enjoy the safety of unanimity, there is much less willingness to compromise because everybody can veto a decision. The arguments brought forth are also more emotional than rational.

The second expectation that was used in answering the research question was also confirmed. Bargaining tends to be more common under Qualified Majority Voting, and arguing is more common under the Unanimity rule. This was predicted by Naurin in his 2009 study but investigated without keeping the policy field a constant factor. This thesis did and found the same result. The proposed reason why arguing is more common under Unanimity is once again the safety of the veto, in which a Member states can block the decision all by himself. During the interviews, the same became apparent in accordance with the literature (Warntjen, 2010; Naurin, 2009). Rhetorical action was more present than deliberation. The reason could be because countries do not have to compromise under this decision rule and can state positions without watering down their ambitions. Bargaining was thus more present under QMV. The type of bargaining that was a little bit more common was distributive bargaining, in which a Member states is looking to get the best deal for himself (Niemann, 2009). This research design was not able to clarify the reason why that was the case.

What came forth was that cultural and personal differences influence how someone behaves during the negotiations. It could be a personality trait that someone is more inclined to bargain in a distributive manner than an integrative manner (Hooghe & Marks, 2014). To say something scientifically valid about this phenomenon, more research is needed.

The third expectation was the hardest to answer, partly due to the research design and the inability to access specific data. It was tried to establish a sequential timeline on which two decisions were compared that differed on the independent variable. It was the goal to try and establish a timeline, as exemplified by Warntjen (2010). In the interviews, it was only possible to ask how actors behaved during certain stages of the negotiations. That question did not yield enough data to make a proper comparison or chronological timeline. Theory guided this expectation, and some initial findings pointed in the direction of confirming the theory, but not enough to thoroughly do so.

Several other factors were found that influenced the negotiations. The role of the presidency turned out to be steered by Norm-guided behaviour. In the six months leading up to a Member states' presidency, they are expected to start taking a more neutral position. During the presidency, it is expected of the MS to be entirely neutral. However, this does not mean that one cannot deliver input, but it has to be done more subtly. That role's power and use depend on cultural and personal differences. However, the effect of the role must be underlined as most respondents attributed some power to this role, in line with the theory established by Tallberg in 2010.

The most notable effect discovered during the interviews and the analysis was the effect of a binding or non-binding decision on the negotiations. Almost all respondents responded with conformation to the question of whether a decision can be binding or non-binding influences the negotiations. It was found that the negotiations are much more fierce when a decision is binding because it can touch upon the sovereignty of member states. Bargaining also tended to be more present when the decision was binding than when it was not binding. However, its effect should be investigated further in another study, as it was not the primary goal of this thesis.

Whether the implementation of QMV in more policy areas of the European Union is part of the Neo-Functionalist path dependency or a functional outcome predicted by Liberal-Intergovernmentalism is hard to tell. As stated by Smeets and Zaun (2020, p.5), it is not a "*gladiator-like test in which two theories enter and only one steps out*", and both could be right. This thesis tried to contribute more to the practical implications of substituting Unanimity into Qualified Majority Voting.

### 5.1. Recommendations

With the treaty of Lisbon, an initial step is taken toward implementing QMV in multiple policy areas. Qualified Majority Voting also entails that actors start behaving differently. Interviewees noted that to remain flexible as a Union, decisions must be taken efficiently. QMV could be the element to make the decision-making process more efficient. However, in order to establish that, further research is needed.

A first recommendation is to conduct a proper document analysis on two decisions that differ on the independent variable to create a chronological timeline. This timeline will allow researchers to see which mode of negotiating is present during which phase of the negotiations. Acquiring all the

documents to do so could prove to be a challenge, as this would require requesting them from the Council.

A second recommendation would be to investigate further the effect of binding and non-binding decisions on the behaviour of actors during the negotiations. It was stated earlier that actors had noted that there is an effect, but it was not the primary purpose of this thesis to dive any further into this matter. An initial research design for such a study could be that the independent variable is the type of decision, which in a dichotomous manner would look like 'binding' or 'non-binding'. The dependent variable would again be the behaviour of actors.

This thesis hopes to contribute by providing more insights into actors' behaviour during negotiations in the Council of the European Union and all the preparatory bodies. Understanding 'what makes someone tick' is important, both for making the best deal for oneself and for having fruitful discussions. Within the European Union, there are many cultural differences and ways of negotiating. Having a common understanding of the showcased behaviour could be beneficial for the decision-making process's efficiency.

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## 7. Appendixes

### 7.1. Interviews

<i>INTERVIEW</i>	<i>FUNCTION</i>	<i>DURATION</i>	<i>LOCATION</i>	<i>DATE</i>
<i>1</i>	<i>Attaché for the SCA</i>	<i>53 minutes 47 seconds</i>	<i>Online</i>	<i>Tuesday the 10<sup>th</sup> of May 14.00h</i>
<i>2</i>	<i>Attaché to the policy field of agriculture</i>	<i>40 minutes 3 seconds</i>	<i>Online</i>	<i>Monday the 9<sup>th</sup> of May 10.00h</i>
<i>3</i>	<i>SCA spokesperson</i>	<i>31 minutes 7 seconds</i>	<i>Online</i>	<i>Thursday the 19<sup>th</sup> of May 11.00h</i>
<i>4</i>	<i>Deputy-ambassador</i>	<i>31 minutes 12 seconds</i>	<i>Online</i>	<i>Tuesday the 17<sup>th</sup> of May 15.00h</i>
<i>5</i>	<i>Attaché for Agriculture &amp; fisheries</i>	<i>42 minutes 35 seconds</i>	<i>Online</i>	<i>Tuesday the 17<sup>th</sup> of May 17.00h</i>
<i>6</i>	<i>1<sup>st</sup> secretary to the policy field of agriculture</i>	<i>57 minutes 44 seconds</i>	<i>Online</i>	<i>Tuesday the 31<sup>st</sup> of May 12.00h</i>
<i>7</i>	<i>SCA spokesperson</i>	<i>34 minutes 28 seconds</i>	<i>Online</i>	<i>Friday the 3<sup>rd</sup> of June 14.45h</i>

## 7.2. Topic-list

Introduction I: Who am I, what do I study and what is the purpose of this interview

- This interview focusses on the negotiations that take place in the Council of the European Union of all the preparatory body. Special focus lies on the decision rules, which can be qualified majority voting or unanimity voting. We'll start with some questions about who you are and where you work. Then we will turn our attention towards the negotiations.
- Talk about data privacy and handling. Start recording (before introduction).

Introduction II: Who are you? Can you tell me a little about yourself and your background

- What is your function?
- How did you come to work in Brussel?
- For how long have you been working here?
- How often do you have meetings for agriculture?
  - In how many preparatory bodies are you active?
    - How often does an ad hoc body get created?
  - How often do you meet and discuss a certain topic?

Council presidency

- The Council of the European Union has a rotating council presidency. What can you tell me about this role?
- Are there any benefits or downsides to this role?
  - How does the presidency affect the way an actors behaves when they are council president to when they are not?
  - Does being president change the way they an actor behave towards other actors?
    - How do they negotiate?

State institutional design

- Some states have a federal institutional design, such as Germany, while other states are more unitarily designed such as Italy. Does the institutional design effect how an actor behaves during the negotiations? Is there a difference noticeable between actors from different countries?
  - Can you describe two types of negotiating?

Media attention

- How much media attention does your policy area receive in your opinion?
- Capitol attention

Type of decisions

Within the treaties of the EU lie several types of legislative acts. These are regulations, directives, decisions, recommendations, and opinions. One difference is whether or not they are binding in their implementation.

- Does the fact that a decision can be binding influence the negotiations in your opinion?
  - What do you notice in the behaviour of actors?
    - How do they negotiate?
- If the decision is binding, how would you describe the behaviour of the other actors?
  - Do the negotiating strike you as more rational or more negotiating on behalf of their preferences?
    - How do they negotiate?
- If the decision is not binding, how would you describe the behaviour of the other actors?
  - Do the negotiating strike you as more rational or more negotiating on behalf of their preferences?
    - How do they negotiate?

The treaty of Lisbon provides that all decisions are taken through majority voting unless the treaty provides otherwise. (core state power).

- How often does it happen that a state requests the decision rule to be different in your council constellation?
- What are the main reasons brought forth for this change?
- Can you name an example?

#### Qualified majority voting

- How does the fact that the decision rule is Qualified majority voting influence the way actors negotiate?
  - o **How do they negotiate?**  
(Dialogue, elaborate, explore, clarify want of others and self, searching for optimal compromise solution, trading via issue linkages, log rolling, monologue, rhetorical action, plebiscitory reason, signalling commitments, pressuring via threats and demands, giving concessions)
    - **Are they inclined to create a common solution that is acceptable to all (arguing), or do they appear to only find the best solution for themselves? (bargaining).**
    - Do they negotiate rationally or more based on their preferences?
  - o Are they inclined to reveal their true interests during the negotiations or do they keep their cards close to their chests?
    - When they keep their cards close to their chest, do they do it in an early stage in the negotiations or in a later stage?
  - o Do actors ever point to their rank or seniority?
    - When does this happen? Early in the negotiations or in a later stage?
  - o Do actors change their mind?
    - When does this happen? Early in the negotiations or in a later stage?

#### Unanimous decision making

- How often does it happen that a decision gets taken under the unanimous decision rule?
- How does the fact that the decision rule is Qualified Majority Voting influence the way actors negotiate?
  - o **How do they negotiate?**  
(Dialogue, elaborate, explore, clarify want of others and self, searching for optimal compromise solution, trading via issue linkages, log rolling, monologue, rhetorical action, plebiscitory reason, signalling commitments, pressuring via threats and demands, giving concessions)
    - **Are they inclined to create a common solution that is acceptable to all (arguing), or do they appear to only find the best solution for themselves? (bargaining).**
    - **Do they negotiate rationally or more based on their preferences?**
  - o Are they inclined to reveal their true interests during the negotiations or do they keep their cards close to their chests?
    - When they keep their cards close to their chest, do they do it in an early stage in the negotiations or in a later stage?
  - o Do actors ever point to their rank or seniority?
    - When does this happen? Early in the negotiations or in a later stage?
  - o Do actors change their mind?
    - When does this happen? Early in the negotiations or in a later stage?

### 7.3. Code book

#### **Code**

#### **Behaviour**

Behaviour: Preference driven

Behaviour: Rational

#### **Control variables**

Control variables: Seniority

Control variables: Capitol attention

Control variables: Changing mind

Control variables: Cultural differences

Control variables: Efficiency

Control variables: Institutional design

Control variables: Media attention

Control variables: Personal differences

Control variables: Politization

Control variables: Presidency

Control variables: Socialization

Control variables: Spillover

Control variables: Topic

#### **Decision rule**

Decision rule: QMV

Decision rule: Unanimity

#### **Mode of negotiating**

Mode of negotiating: Deliberation

Mode of negotiating: Distributive bargaining

Mode of negotiating: Integrative bargaining

Mode of negotiating: Norm-guided behaviour

Mode of negotiating: Rhetorical action

#### **Negotiation phase**

Negotiation phase: COREPER

Negotiation phase: Council level

Negotiation phase: SCA level

Negotiation phase: Working party level

#### **Sequence of negotiations**

Sequence of negotiations: Early stage

Sequence of negotiations: Later stage

Sequence of negotiations: Middle stage

#### **Type of decision**

Type of decision: Binding decision

Type of decision: Non-binding decision

#### **Type of negotiating**

Type of negotiating: Arguing

Type of negotiating: Bargaining

#### **Ukraine**