



WINPEC Working Paper Series No.E1510  
September 2015

When Can Threats be Used in EU Treaty Negotiations? :  
Power, Interests and Normative Contexts

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**When Can Threats be Used in EU Treaty Negotiations? :  
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**[Abstract]<sup>2</sup>**

In the negotiations to revise the founding treaties of the European Union (EU), there are some instances where coercive threats can crucially determine the negotiated outcomes by overcoming the desperate efforts of some member states to resist a move towards further integration. Notably, the threats, despite their provocative nature, are used without seriously damaging the relationships between the threatening and the threatened states. Under which conditions can the use of threats bring about such an effect? In this article, I present an argument that three conditions have to be met to enable the effective use of threats. To start with, the size of the country matters, in the sense in which only larger states, not infrequently Germany, France and the UK, can instigate threats. Second, if the large states offer some *minor* return to the targeted states when making offensive threats, it contributes to the easing of the possible adverse effects of the threats on the relationship by saving the face of the targeted countries and on decreasing the substantial loss that they incur from the agreement. Third, the use of threats, despite its forceful nature, can be ‘justified’ even in the eyes of the threatened states and the level of hostile sentiments on the part of the targeted states can be moderated, when the threats are used in conformity with the general objectives of the negotiations. These three conditions, taken together, can further the chances of successfully threatening other governments to make concessions or acquiesce without bringing about severely adverse effects on the relationships between the governments involved.

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<sup>2</sup> This paper was originally presented at the 7th Pan-European Conference on the European Union, SGEU, ECPR, The Hague, The Netherlands.

## **Introduction**

Since the 1980s, the founding treaties of the European Union (EU) have repeatedly been discussed and revised at a series of Intergovernmental Conferences (IGCs). Since amending the treaties is likely to have a decisive impact on the course of European integration, the negotiations often provoke disputes among the national governments. When governments are in conflict with one another, their negotiations tend to settle for the lowest common denominator, reflecting the positions of the least reformist countries (Moravcsik, 1991: 25-7; Scharpf, 1988; Tsebelis & Garrett, 2001). This is primarily because states which are desperate to defend the status quo are supposed to block any agreements that they see would cause serious damages to their interests by using their veto power, which the unanimity requirement guarantees.

However, negotiations do not always result in the lowest common denominator. This is because the threats or coercive tactics which are occasionally used in the course of the negotiations have the potential to force the recalcitrant states to relax their resistance, make concessions or acquiesce, thereby producing a significant reform which goes beyond the lowest common denominator, even though some states vehemently oppose it.

Despite such a significant potential, in the existing studies on EU treaty negotiations, not much attention has been paid to threats and consequently and very little has been understood about the way in which they are used (Dür & Mateo, 2010: 558). What kinds of threat can drive states to relax or abandon their resistance and make concessions? Who can employ such threats? And in what situations can threats successfully pay off by eliciting concessions from other states? By addressing these questions, this paper aims to uncover the conditions for the effective use of threats.

Although various types of threat are conceivable for use in international negotiations and diplomacy (Dür & Mateo, 2010), this study is concerned exclusively with threats of a non-military nature but which still, by definition, have an 'offensive' implication. It is offensive in the sense that the threats are used with the explicit intention of forcing other states to accept a given reform, however vehemently those states are opposed to it. Such threats take the form of suggesting that the interests of the target governments will be damaged in some way if their intransigence continues. They should thus be distinguished from 'defensive' threats which can be used by governments to block agreements, typically represented by threatening to veto, with a view to defending their national interests as reflected in the status quo.

The argument to be presented in this article is that three sets of conditions can explain the efficacy of offensive threats. To start with, in line with a widely shared idea in the literature of international relations, the size of the country matters. This means that only large states, more often than not Germany, France and the UK, can play a leading role in instigating threats.

However, this idea as such can provide a necessary but not sufficient condition for the use of offensive threats, because it falls short of explaining why large states can resort to threats in some cases but not in others. In this regard, it is considered that as the second factor, something should also be needed with the aim of alleviating the loss of threatened states that accrues when they unwillingly accept a given reform. This can be done when the threatening states offer some minor return to them for their concessions, since it can save the face of the threatened countries and diminish the extent of the loss they will suffer from their concessions. Additionally, I further argue that as the third condition, the threats also have to be used in conformity with the general objectives of the negotiations, since by so doing the use of threats, despite its forceful nature, can be ‘justified’ and the level of hostile sentiments on the part of the targeted states can be moderated. The justification effect would be significant since it can make even the targeted states feel that there are legitimate reasons why they are being threatened. In short, these three conditions, taken together, can further the chances of successfully threatening other governments so that they make concessions without bringing about severely adverse effects on the relationship between the governments involved.

In the following sections, I first provide a review of the existing research on EU treaty negotiations, with a particular focus on the choice and availability of various negotiating tactics in EU treaty negotiations. Next, I develop the theoretical reasoning and a series of conditions for the effective use of offensive threats. In the subsequent sections, I engage in an analysis of three cases in which offensive threats were indeed used: the IGC 2000 negotiations on the size of the Commission; the Irish problem of ratifying the Lisbon Treaty in 2008; and the 2003-4 Constitutional Treaty negotiations on the definition of Qualified Majority Voting. This article concludes by discussing the implications of empirical findings.

## **1. Offensive Threats Eliminating the Status-quo Bias**

In EU treaty negotiations, each national government is guaranteed the right to veto the final agreement. Stressing the significance of the power to veto, much of the existing work on EU treaty negotiations claims that a status quo bias is embedded in EU treaty negotiations, allowing the most resistant countries to block any reforms that they do not want (Moravcsik, 1991: 25-7; Scharpf, 1988; Tsebelis & Garrett, 2001; Tsebelis & Yatahanas, 2002). This claim, for example, is set out in the theoretical argument provided by liberal intergovernmentalism which predicts that where national interests diverge from one another, the outcomes will reflect the relative bargaining power of governments, understood to be derived from ‘the pattern of issue-specific asymmetrical interdependence’ (Moravcsik, 1998: 482; Moravcsik & Nicolaïdis, 1999: 73-4). In this view, national governments with the greatest reluctance to make reforms can have strong bargaining power in extracting concessions in their favour, whereas governments which support

reforms in a given issue have for the sake of agreement to compromise the most in order to overcome the resistance of recalcitrant governments (Moravcsik, 1998: 482; Moravcsik & Nicolaïdis, 1999: 73-4). Simply put, it is argued that the negotiations tend to settle for the lowest common denominator, reflecting the position of the least reformist countries.

A series of quantitative studies provides empirical evidence which corroborates this view (Hug & König, 2002; Slapin, 2006). As these studies point out, national governments which position themselves near the status quo can block any unwanted reforms, in particular when they can claim credibly that if by any chance they accept a given reform which they do not want, it will lead to the high probability of failure when it comes to domestic ratification (König & Slapin, 2006: 424; see also Putnam, 1988: 440).

Next, when turning to the existing studies on negotiation tactics available in EU negotiations, we notice that they have been heavily weighted towards the use of 'defensive' tactics. It is evident, for example, in the study of Dür and Mateo (2010: 562-3), which lists a series of hard bargaining tactics that the authors consider might possibly be used within the EU. Importantly, the tactics which they enumerate are threats of veto, a public commitment to not giving in, and the formation of a defensive coalition, all of which are used for defensive purposes, that is, to block unwanted agreements and fight hard in defence of the status quo. This biased focus in the literature may well reflect the fact that EU treaty negotiations are structured by highly institutionalised circumstances in which the use of offensive threats is systematically excluded. To be sure, military threats are not used in the EU context. Neither do member states threaten one another's economic well-being, such as closing or limiting access to markets, placing tariffs or introducing monetary measures so as to cause damage to the economy of another member state. Moreover, it is often believed that member states usually avoid making offensive threats because the member states usually seek consensus, attaching importance to maintaining their cooperative relations (Lewis, 2003; Wallace, 2005: 36-42).

However, the negotiations do not always end by taking the lowest common denominator since there are some instances where member states can overcome the desperate efforts of other states to prevent agreement by resorting to offensive threats. However, in the studies so far, less attention has been paid to the use of offensive tactics.

So in exploring the dynamics underlying the use of offensive tactics, the first step should be to identify what kinds of offensive threat are available in EU treaty negotiations (or probably in the more general context of the European Council and the Council). Here, two types of offensive threat are envisaged. The first is the threat of exclusion. This is a threat which, as an important exception to the current literature that largely neglects the significance of offensive threats, Andrew Moravcsik refers to in his seminal book *The Choice for Europe* (1998: 64-5). Generally, the threat takes the form of suggesting what is often called 'closer cooperation',

‘enhanced cooperation’, ‘flexible integration’, ‘two-speed or multi-speed Europe’ or ‘differentiated integration’. The idea is designed to let a specific group of countries go ahead with further integration or closer cooperation in designated issues, leaving reluctant states behind. When this suggestion is made as a threat of exclusion, the targeted states are forced to consider the costs of being excluded from the agreement. If the targeted states consider the costs to be significantly damaging to their interests, they can only respond by making concessions in order to avoid exclusion. However, even in this study by Moravcsik, the conditions in which the threat of exclusion can be effectively used remain less clear. In this respect, the present study seeks by considering the conditions to improve our understanding of the dynamics of using this threat.

The second type of threat is what I should call a ‘linked’ threat. Threats of this sort may be slightly similar to or in part comprised in a broad category of threat which Helen Wallace claims is often used in meetings of the Council: ‘A government will not agree to X, unless Y is also agreed’ (Wallace 2005: 37). But for the purposes of the present study it is useful to focus more narrowly on the linked threat which can be used to suggest that if some states are intransigent over a given issue they will be deprived of or suffer damage to their interests in regard to other issues. Its distinctive feature is that, when it is successfully used, it becomes possible to reach agreement even in a zero-sum situation which clearly benefits some states while substantially damaging the interests of others. This threat has not so far attracted scholarly attention in the EU literature and therefore it is important to specify the conditions in which it can be used effectively.

## **2. Theoretical Reasoning on the Conditions for the Use of Offensive Threats**

States face three main sets of risks when using offensive threats in intergovernmental negotiations. First, the use of threats poses a risk of provoking the targeted states, and has a negative impact on their future cooperation in the same or other policy areas. Second, the threatened states may respond to the threats by hardening their positions over the issue under debate, thereby making it even more difficult to elicit concessions from them. Third, even if the use of threats led the targeted states to make concessions, there is no guarantee that the intergovernmental compromise can be approved for domestic ratification, whether through the parliamentary route or by a national referendum, since the domestic actors tend to perceive it as damaging to their interests.

For the effective use of threats, such associated risks have to be addressed. In this section, I present three sets of conditions related to the effective use of threats by eliminating or at least

lowering these sets of risks. Each of these conditions focuses on the aggregate of material resources, the calculation of costs and benefits on the part of the threatening states, and the normative contexts which can allow for the use of offensive threats. Those conditions, it is argued, can overcome the difficulties or lower the risks associated with the use of offensive threats and, taken together, can allow states to resort to them.

Let us start by considering the material resources belonging to states. It is often considered that large states have more bargaining power than small states. This is a view broadly shared by different bodies of international relations theory, in particular, realists, intergovernmentalists and many rationalists, all of whom conceptualise the extent of national power in relative terms of the aggregate of material resources belonging to them. When applied to the context of EU treaty negotiations or to the EU system more generally, Germany, France and the United Kingdom are often perceived as the three 'large' countries which can exercise more bargaining power than the rest, since they have favourable material resources such as economic clout, large populations and much military power (e.g. Moravcsik 1991: 20-1, 25-7).

Those large states do not damage other member states by means of military threats or economic closure. Instead, their advantageous material capabilities can help them in the negotiations, but in more implicit or indirect ways. The use of threats is provocative and likely to give offense to the targeted states. So the use of threats is likely to exacerbate the relationship between states which opposed one another over a given issue. When the use of threats worsens the relationship, it might adversely affect their cooperation in other issues which are also under discussion in parallel or which will be debated in future inside or outside the EU. Therefore, states which try to threaten others should be well prepared to face a difficult relationship with them.

Thanks to their relative material advantage, large states are expected to have less than smaller states to worry about in the risk of a deteriorating relationship with the target states. In other words, in relative terms, larger states can keep small the damage that they would suffer from a worsened relationship with smaller states, since individually, small states have neither a strong say in the institutional framework of the EU nor material resources which they could contribute to the strengthening of policy cooperation in the EU. Therefore, underpinned by their material advantage, the three large states—Germany, France and the UK—are expected to be able to make use of offensive threats which are not available to smaller states. In contrast, the

relatively few resources of smaller states inescapably drive them to be more cautious about the consequence of using offensive threats, since they predict that they will be punished if they put their relationship with larger states at risk with the use such threats. From this power-based reasoning, the following hypothesis can be derived.

**Condition 1** (Material Recourses): Offensive threats can effectively be used only by states with advantageous material resources

The power-based perspective which points to the importance of aggregate material resources provides a plausible condition for the use of offensive threats but has a limitation, since it fails to explain why states with material advantage can resort to offensive threats in some cases but not in others. Here, the structure of cost and benefits on the part of the threatening states should be taken into consideration in the sense which states can employ offensive threats only when they can see that it is in their interests.

There are at least two distinct cases in which threatening states cannot receive the expected benefits from their use of offensive threats. The first case is where the use of threats evokes a feeling of antipathy or hostility on the part of the threatened states and therefore they react to the threats by hardening rather than softening their positions. In this case, the use of threats results in worsening the relationship between the threatening states and those which they target. Given that a negotiation round of EU treaty reforms usually deals with a number of issues, any such markedly worsened relationship inevitably poses the risk of putting the final agreement in jeopardy. It should be recalled here that even smaller states can block a final agreement by using their veto power. It is thus possible that the use of threats jeopardises the overall negotiations by widening the divide between states. Furthermore, where the threatened states made public their negotiating positions internally, the cost to the domestic audience would increase, thereby making it even more difficult for them to change their negotiating positions in the face of offensive threats, since any government would be criticised by its electors if it caved in to threats from other states.

The second case is where even if states reluctantly accepted a new treaty reform which they did not want to accept, the process of domestic ratification might end in failure. In each member state, new EU treaties are ratified through parliament route or by a national referendum. If a proposed reform were disapproved and not ratified in the target states, the threatening states



would suffer a setback since it would frustrate the effort they put into the process of achieving intergovernmental agreement.

Therefore, when threatening others, states are obliged to address these risks by taking some measures to save the face of the threatened states or to reduce the extent of the substantial loss that the threatened states would suffer from a given agreement. The measures chosen for these tasks often take the form of giving some *minor* return to the threatened states. If the threatened states receive a return of some sort, they can proclaim it as their gain in the negotiations. By so doing, they make it easier for themselves to accept a reform which they are reluctant to accept and to raise the probability of successful ratification at the domestic level.

The important point here is that the threatening states do not have to give so much in return to their counterparts as to negate the benefits they can reap by achieving the reform they wanted to make. Obviously, the threatening states want to offer as little return as possible, since if they present a major return, it reduces or exceeds the level of benefit they can get from the agreement. Here, offensive threats can be distinguished from simple issue-linkages or within-issue concessions which are created for mutual or reciprocal benefit. By definition, using offensive threats makes it possible to impose a win-lose or zero-sum outcome, where one side gains while others lose in the overall distribution of costs and benefits. That is, with the use of offensive threats, it becomes possible to achieve intergovernmental agreements which generate substantial benefits to the threatening states while causing tangible loss to the threatened states. The minor returns by necessity become the ones which are not enough to compensate for the loss the states would suffer from the agreement but which still play an important role in saving their face back home and reducing the level of the loss they will suffer from the agreement. This line of reasoning leads us to formulate the following hypothesis.

**Condition 2** (Minor returns): Offensive threats can be used effectively if some minor returns are given to the targeted states.

Even if the above two conditions – material resources and interests – are both satisfied, it is not considered enough to induce the targeted states to make concessions. The fact remains that they will lose something by the agreement, even after they receive some minor returns for their acceptance of the reform. This being the case, it is still puzzling why they accept a given reform, even though they know that they have the right to veto it. In this regard, we should look to the importance of inter-subjectively constructed normative contexts (Christiansen, Falkner &

Jørgensen 2001: 23; Christiansen & Jørgensen 1999: 4; Christiansen & Reh 2009:132-3; Dimitrakopoulos 2005).

The normative contexts are understood as a set of dominant norms, principles and ideas which provide standards of appropriate political action in a specific political situation. Such contexts can add social or intersubjective dimensions to particular international negotiations in the way that they provide normative standards for the participating negotiators of member states to judge which kinds of action can be regarded as legitimate or rightful and which cannot. Operating independently of material resources or interests, the normative contexts can make a difference to intergovernmental negotiations by justifying the use of some negotiating tactics but not others (Schoppa 1999; Tallberg 2008:690).

When considering the context of EU treaty negotiations, the objectives shared by many member states and EU institutions or what Thomas Christiansen, Knud Erik Jørgensen and Christine Reh call 'IGC discourses' is of central importance in building the normative structures (Christiansen & Jørgensen 1999: 4; Christiansen & Reh 2009: 136). Before and during EU treaty negotiations, government leaders and members of the EU institutions often express their ideas about the purpose of EU treaty negotiations and what kind of reform is desirable from the negotiations (Christiansen, Falkner & Jørgensen 2002: 23). The power of a normative structure will be significant to the extent that government actors or members of the EU institutions share an overarching purview over the general orientation of a new treaty reform and on the specific issues to be discussed. Although there are some cases where they often have different or competing views over specific items on the agenda, the overall or collective objectives are, more than often not, explicitly enshrined in formal statements issued at previous IGCs or summit meetings of the European Council.

As the essential component of the normative structure, the expressly shared objectives for a specific round of EU treaty negotiations provide important reference points for assessing appropriate negotiating behaviours in the negotiations. When states consider using offensive threats, it is crucial whether the general thrust of the reform that they aim to achieve by means of such offensive threats corresponds to the general objectives of the EU treaty negotiations. When there is a correspondence between the aim of the threats and the general objectives of the treaty negotiations, the normative contexts play a role in justifying and allowing for the use of offensive threats. When the threatened states are well aware of or clearly endorse the values of

the general objectives, they will find that their negotiating position or their resistance over a given reform does not fit well with the general objectives which are widely recognised as legitimate in the context. In turn, they will realise that there is a compelling reason why they are being threatened in the specific normative situation and that it is imperative to accept the reform in view of the general objectives, even knowing that it may substantially damage their interests. When the use of threats can be justified in this manner, it is expected that the use of threats will not evoke strong feelings of antipathy or hostility towards the threatening states; it can indeed reduce the risk of offensive threats endangering the relationship between them.

In contrast, if the aim of the threats does not accord well with the general objectives of EU treaty negotiations, the threatened states will consider that the threats are being employed solely in the interests of the threatening states. In this case, the use of offensive threats is not justified in light of the general objectives or in the eyes of the threatened states and, as a consequence, the strong feeling of enmity or antagonism will be aroused on the part of the threatened states and they are likely to respond to the threats by stiffening their resistance. The following hypothesis can be derived from this line of reasoning.

**Condition 3** (Normative contexts): Offensive threats can be used only when the aim of the threats conforms to the general objectives of the negotiations.

Thus far, I have formulated three sets of conditions which are expected to explain the effective use of offensive threats. These conditions focus in turn on the material resources, the cost-benefit calculations on the part of threatening states, and the normative contexts of the negotiations. As noted earlier, I consider that these three conditions should be seen as complementing rather than competing with each other. Since each condition focuses on a distinctive risk which arises in the process of using offensive threats, I claim that all three conditions have to be met for the effective use of threats.

### **3. Empirical Episodes**

From this section, in order to examine the three hypotheses as derived above we now turn to three empirical episodes in which offensive threats were in fact used.

#### *Negotiations on the size of the Commission during the IGC 2000*

In the institutional milieu of the EU, the Commission functions as the administrative body of the EU, with the task of achieving the objectives laid down by the EU treaties and acting in the

general interests of the EU (Cini, 1996: 106-11). The College of Commissioners constitutes the political executive of the Commission, and each Commissioner, like a cabinet minister at national government level, takes charge of a specific portfolio. It has been the member governments that have selected the Commissioners, but under the terms of the EU Treaties, each Commissioner is obliged to act in the common interests of Europe, independently of specific national interests. Therefore they must neither seek nor take instructions from any government. However, in practice, the Member States often expect Commissioners to act as their national representatives and there have in fact been instances of national governments trying to influence the decision-making of the Commission by ensuring particular posts for their Commissioners or by inputting specific national interests into the Commission through their Commissioners (e.g. *EurActiv*, 30 November 2009).

Since the inception of the European Communities in the 1950s, the Commission has included two Commissioners from each of the five most populous Member States (Germany, France and Italy at first and subsequently the UK and Spain) and one from each of the others (Gerbet 1992: 16). On this principle, when Austria, Finland and Sweden joined the EU in 1995, the number of Commissioners had reached twenty. However, there was at the time a growing concern that it would become difficult to continue in this way, since it would lead to the appointment of more than thirty Commissioners once countries from Central and Eastern Europe had joined (Reflection Group, 1995: 31).

With an eye to this enlargement, when the IGC started in 1996 the French government opened a debate on the composition of the Commission by insisting on a drastic reduction in the number of Commissioners (*European Voice*, 13 March 1997; CONF 3852/97: 2). An excessive increase in the number of Commissioners, it argued, would make it difficult for the Commission to work in an effective and cohesive way (Gouvernement Français 1997).

The four other large countries (Germany, the UK, Italy and Spain), which at the time were entitled to two Commissioners each, also supported the French proposal (CONF 3900/96: 10-1, CONF 3863/97: 2-3). Behind this argument was their concern that, in an enlarged Union, the relative weight within the Commission of the large Member States would be reduced and the power balance among the Member States would tilt in favour of an increasing number of smaller Member States.

The proposal, however, provoked an immediate backlash from the small and medium-sized countries (CONF 3900/96: 9-10; CONF 3857/97: 2). While the smaller states agreed that the size of the Commission should in principle be reduced, they fiercely opposed the French proposal and defended the system of one Commissioner per country (CONF 3860/96: 27). Many smaller countries considered that the Commission was an important ally for them, which could protect their interests against the dominance of larger states (*European Voice*, 13 March

1997). Their particular concern was that if they did not have their own Commissioner, their interests would be overlooked in both the Commission and in EU decision-making as a whole (Piris, 2006: 112; see also CONF 2500/96: 109).

This conflict was so intense that the government leaders in the Amsterdam IGC could not find any feasible solution to the conflicts and the debate was postponed to the next round of treaty negotiations (McDonagh, 1998: 163; see also *Agence Europe*, no.6981, 26 May 1997). However, even after the next IGC started in Nice in February 2000, the large and small states were once again found to be in confrontation (CONFER 4727/00; CONFER 4750/00; European Commission, 2000a). Thus, in order to break the impasse, the large states, led in particular by the German and British governments, made a linked threat. To start with, they put forward the idea of creating a ‘two-tier’ Commission, on the assumption that a system of one Commissioner per state would be adopted (European Commission, 2000a: 1-4; 2000b: 2-3; 2000c: 1-2). They insisted that a ‘two-tier Commission’ would be desperately needed to maintain the effective working of an organisation with so many Commissioners.

In addition, the large states crucially went so far as to pile further pressure on the small states by suggesting that, even if the idea of a two-tier Commission was not adopted, under the system of one Commissioner per state a de facto ‘hierarchy’ would inevitably form in the Commission (European Commission, 2000a: 1-4; 2000b: 2-3; 2000c: 1-2). Here the small states quickly realised the underlying political message: the large states would reserve important posts for their Commissioners, leaving only minor posts for the Commissioners from small states; and Commissioners with minor posts would certainly be less influential within the Commission. Moreover, as the large states reasoned, the system of one Commissioner per state would be unfair to the large states, since it would force them alone to make sacrifices by abandoning their second Commissioners, without any loss on the part of the small states. Therefore, the large states asserted that they should necessarily be compensated by having the more important posts for their remaining Commissioners than were available to the Commissioners of the small states (Parlement Belge, 2003: 29).

This was a linked threat exercised by the large states against the small states. Here the large states brought a different issue into the negotiations, that is, the issue of allocating certain posts to certain Commissioners. In the face of this threat, the small states faced a predicament. If the idea of a two-tier Commission were accepted, the Commissioners of the small states would be excluded from the important decision-making of the Commission, since they would have been allocated only non-voting Commissioners. But even if the system of one Commissioner per state were installed, it would surely result in a situation where the large states would always retain important posts for their Commissioners, leaving minor posts for the small states. Furthermore, the small states, in particular the Benelux states, had already noticed an emerging

tendency for an increase in the number of Member States to lead to the allocation to smaller states of less important posts for their Commissioners, whereas important posts were occupied by the large states. So further enlargement of the EU, the smaller states anticipated, would reinforce this tendency by a situation which would amount to a *de facto* introduction of ‘ a hierarchy’ into the Commission, as the large states had suggested (Interview 1).

In the face of this dilemma, the three Benelux governments eventually came to the view that the best option would be to accept a reduced Commission combined with a equal rotation system (Interviews 1, 2). In reaching this view, they shared an understanding that this option would best serve their national interests, in the sense that it would allow the Benelux states to have meaningful posts for their Commissioners and at the same time to retain their voice and influence within the Commission (Interviews 1, 2).

Hence, at the informal Biarritz European Council in October 2000, the Benelux states for the first time expressed their intention to accept a reduced Commission. At the dinner table in Biarritz, the Dutch Prime Minister, Wim Kok, representing the three Benelux countries, asked French President Jacques Chirac whether all of the five large states could accept a rotation system which ensured the equal treatment of the Member States in the allocation of Commissioners (Interview 2). Wim Kok stressed in his reply that the Benelux states would be prepared to accept a reduced Commission, but only if the large states accepted it. What the Benelux leaders proposed here was to reduce the number of Commissioners in two phases: first, the Commission would move to a system of one Commissioner per stat; and second, after new members had acceded to the EU, the Commission would move to a new composition system consisting of fewer Commissioners than the total of Member States. Having received this proposal, Chirac quickly called for a meeting with the leaders of the other large states and managed to elicit a positive response to the rotation system. The deadlock was thus broken and from this point the negotiations gained compelling momentum towards a reduced Commission.

When we look at the statements and remarks delivered by the Benelux governments, we find that the Benelux states proposed the introduction of an equal rotation system as a means of curbing the emerging tendency to discriminate between the Commissioners from large and from small states. For example, Guy Verhofstadt, the then Belgian Prime Minister, stated before the Belgian Parliament that ‘an equal rotation was the only good response which allowed us to put a brake on the move to create a Commission consisting of superior Commissioners and subordinate Commissioners’ (Parlement Belge, 2003: 28-9). He added that there was a risk that the medium-sized and small states would be allocated posts or missions of secondary importance for their Commissioners, and in this situation the Benelux states preferred to have their Commissioners, say, in one out of every two terms of the Commission, thus allowing them to keep a post which was important for them.

The Luxembourg leaders also made it clear that the government accepted the reduction in the size of the Commission on condition that all the large states accepted the principle of equal rotation (Luxembourg Government, 2004). The Prime Minister, Jean-Claude Juncker, said that the advantage of the rotation system was that ‘German and Luxembourg could stand on an equal footing in terms of the distribution of Commissioners. This rotation system can also maintain collegiality among Commissioners’ (*Deutschland Radio Berlin*, 1 March 2002). The Foreign Minister, Lydie Polfer, also stated that ‘in a Commission of 25 or more commissioners, it would be harder to find areas of competence equivalent to all members ... Smaller countries would be given less important areas, while within a smaller Commission, all countries would receive in turn the chance to have important tasks’ (Polfer, 2003).

Likewise, the Dutch government also emphasised the significance of the rotation system. In November 2000, the Dutch Foreign Minister, Josias van Artsen, announced before the national parliament that ‘in the long run, the Netherlands is open to discussion to set a maximum number of members of the Commission, only if a strict rotation system among Member States is guaranteed. For the Netherlands, it is unthinkable that some Member States have a Commissioner more often than other Member States’ (Nederlandse Parlement, 2000: 15-16). The Dutch government explained that if the size of the Commission were allowed to keep increasing, there would not be enough portfolios for all the Commissioners. Therefore it argued that a strict rotation system should be introduced to ensure that France and Luxembourg would stand on an equal footing (Nederlandse Parlement, 2003: 49). This system, the government promised, would guarantee that the larger states would not be prioritised over the smaller ones. All these statements and remarks point to the fact that the Benelux states attached great importance to the equal rotation system as a means of stopping the move to create a *de facto* hierarchy within the Commission.

The change in the position of the Benelux countries had a huge impact on the course of the negotiations. With this change, the states in favour of a reduced Commission became a majority force in the IGC. A group of eight out of the then 15 Member States, made up of five large countries and the three Benelux countries, now favoured a reduced Commission (CONFER 4813/00: 1). Furthermore, the Benelux countries began to lead the camp of smaller states, and once the Benelux states changed their position, the cohesion among the small states broke up (Interviews 1, 2). The other smaller states lost ground and were impelled to give up on this issue (Interviews 3, 4, 5).

No sooner did these three countries change their views than a solution came into sight. The French presidency quickly seized this opportunity and at the final summit in Nice proposed that any state which acceded to the EU would be entitled, at the time of its accession, to appoint one Commissioner from its nationals. But from the next term of office of the Commission, it would

move to a new system of fewer Commissioners than the number of Member States (CONFER 4816: 92). This proposal precisely followed the one presented by the Benelux countries. At Nice, this compromise solution settled the negotiation on the size of the Commission. The agreement was incorporated into a Protocol annexed to the resulting Nice Treaty – the ‘Protocol on the Enlargement of the European Union’. This Protocol established that once the total number of Member States reached 27, a new system would be introduced in which the number of Commissioners would be ‘fewer than the number of Member States’.

#### *The Irish problems of ratifying the Lisbon Treaty in 2008*

In the Constitutional Treaty negotiations, more details were decided about reducing the number of Commissioners and, in accordance with this decision, it declared that it would move in future to a system in which the Commission should consist of a number of Members corresponding to two-thirds of the number of Member States. With this declaration, the question of the size of the Commission seemed to be settled. However, in the Dutch and French referendums in 2005 the Constitutional Treaty was rejected. Two years later, the Member States decided to negotiate a new treaty which would later become the Lisbon Treaty (European Council, 2007: 4). As a point of departure, it was generally understood among the Member States that the institutional reform proposed by the Constitutional Treaty was still needed (Council of the European Union, 2007: 4). Based on this understanding, no Member State tried to re-open negotiations on the size of the Commission. Therefore, it was agreed without any problem that the reduction in the number of Commissioners scheduled by the Constitutional Treaty should be retained. By this action, the Member States agreed that the number of the Commissioners would be reduced to 18, which amounted to two-thirds of the number of Member States.

However, in the process of ratifying the Lisbon Treaty, the situation significantly changed after the Irish people refused to ratify the Treaty in a referendum on 12 June 2008. By then the 18 Member States had already approved the ratification through parliamentary procedures. But the Irish ‘No’ put the Treaty in jeopardy, since it could not come into effect until all the member states had ratified it. In their search for a way out of this situation, immediately after the referendum outcome was announced, the German and French leaders informally pressed the Irish government to hold a second referendum (*Irish Times*, 20 June 2008; Interview 6). However, the Irish government declined to mention the second referendum, since it calculated that this would produce a huge backlash at home unless they explicitly showed an attitude of respect for the will of the Irish people as expressed in the referendum (Interview 6). Despite this consideration underlying the Irish reluctance, other states started to put pressure on the Irish government in order to move the ratification process forward.



First, several states suggested leaving Ireland behind, by indicating a ‘multi-speed’ Europe or ‘differentiated integration’. To begin with, on 13 June, shortly after the referendum result was announced, the French and German governments published a joint declaration calling for the ratification process to continue (*Agence Europe*, no. 9683, 17 June 2008). The other governments came into line with this call and a clear message emerged in consequence from the Brussels European Council on 20 June that the member governments would continue the ratification process and would not abandon the Treaty (European Council, 2008: 1). Its political message was clear: ratify the Treaty in the other countries and then put pressure on Ireland to resolve its own problem (*Irish Times*, 20 June 2008). In fact, the ratification process went ahead in spite of the Irish ‘No’, starting with approval from the British parliament on 18 June. This strong commitment contrasts with the response given to the rejection of the Constitutional Treaty in the Dutch and French referendums of 2005, where the governments suspended the ratification process and entered into a period of reflection for two years. Furthermore, the other Member States made it clear that there would never be further amendments to the Lisbon Treaty because it would require all the states to go through their ratification process all over again (*Agence Europe*, no. 9686, 20 June 2008).

In parallel, the media in some states did not hesitate to speak of leaving Ireland behind. The German Foreign Minister, Frank-Walter Steinmeier, mentioned the possibility of going ahead with the Lisbon Treaty without Ireland (*Agence Europe*, no. 9683, 17 June 2008). In a similar vein, the Belgian Secretary of State for European Affairs, Olivier Chastel, stated, ‘if it turns out that Ireland continues to be unable to ratify the treaty, then Belgium will propose looking into ways of overcoming the Irish problem with “differentiation”, offering Ireland the possibility of giving up some of the steps forward contained in the Treaty of Lisbon’ (*Agence Europe*, no. 9683, 17 June 2008). Furthermore, the French President, Nicholas Sarkozy, alluded to the likelihood that if the Nice Treaty remained in force, Ireland would be the country which could not nominate its Commissioner in the next Commission to be appointed in 2009 (*Agence Europe*, no. 9678, 10 June 2008; *Irish Examiner*, 8 August 2008: see also Irish Parliament 2008: 22). This remark referred to the fact that, under the Nice Treaty, at least one state would have to lose its Commissioner from 2009. Brian Cowen responded to these threats of exclusion by insisting that ‘the EU should help Ireland find a solution’ and ‘Ireland could not be marginalised in Europe’ (*Agence Europe*, no.9683, 17 June 2008). The Irish Minister for Foreign Affairs, Micheál Martin, also claimed that ‘Ireland is deeply committed to EU integration and does not want to be left behind’ (*Agence Europe*, no. 9683, 17 June 2008).

Here it is significant to note that the real aim of these threats was not to exclude Ireland but to urge Ireland to consider a second referendum. In the aftermath of the referendum, the German and French governments informally asked the Irish government to consider putting the Lisbon

Treaty to a second referendum in 2009 (*Irish Times*, 20 June 2008). At the same time, France and Germany promised to offer certain ‘guarantees’ or ‘assurances’ to Ireland in response to various concerns expressed in the ratification campaign, with a view to enhancing the prospects of success in a second referendum (*Agence Europe*, no. 9687, 21 June 2008; no. 9689, 25 June 2008).

Thus, the options available to Ireland were clear: try to ratify the Lisbon Treaty in a second referendum or allow the other states to go ahead with ratifying the Lisbon Treaty without Ireland. To Ireland, the latter option was simply out of the question, since it was desperate to avoid being excluded. The Irish government was clearly aware that if Ireland continued not to approve the Lisbon Treaty, the country would be altogether excluded from some parts of the EU and this would cause enormous damage to Irish interests (Irish Parliament, 2008: 22-6). This fear led the Irish government to consider that another referendum to resolve this impasse and recover its lost ground would be unavoidable.

Once the Irish government made up its mind to hold a second referendum, the next step was to consider what to request in exchange for doing so. As noted in section 1, above, the government held internal deliberations on this point and considered that what it requested had to correspond to Irish concerns. Before long, the government came to the conclusion that maintaining one Commissioner per state would be its prerequisite for holding a second referendum (Interview 6; see also *Irish Independent*, 30 July 2008; *Agence Europe*, no. 9763, 17 October 2008). But the Irish government had to be cautious in assessing how the other governments would respond to this demand. In the course of the informal post-Irish referendum consultations among the Member States, the Irish government, on the one hand, realised that many small states (apart from the Benelux states) and the countries from Central and Eastern Europe favoured the system of one Commissioner per state. This was no surprise, given that these states had been originally in favour of it (Interview 6).

On the other hand, the Irish government also had the feeling that Germany, France and Britain, which had strongly argued for a reduction in the number of Commissioners, were reluctant but not so recalcitrant as to reject the possibility of reverting to one Commissioner per state. One month after the referendum, during his visit to Dublin on 23 July 2008, Nicolas Sarkozy signalled his flexible position, remarking that he was ‘not convinced that an oversized Commission could carry out its mission with the necessary efficiency’ but that if the Irish government demanded it, he would not exclude the possibility of maintaining the system of one Commissioner per state (*Irish Times*, 19 July 2008). In fact, he saw the advantage of making use of the size of the Commission in order to resolve this stalemate, because one provision of the Lisbon Treaty, if ratified, would allow the Member States to change the number of Commissioners by unanimous agreement in the Council, without necessitating a formal treaty

reform (*Irish Times*, 19 July 2008). The German government also in the informal meeting of foreign ministers in Brest, France, in August 2008 expressed its positive attitude to one Commissioner per state (Interview 6). The British government, for its part, initially seemed reluctant but in the end gave it the green light, after the government realised that maintaining the system of one Commissioner per state would not require the UK to start another ratification procedure, which would inevitably spark a call from Eurosceptic forces for a referendum (Interview 6).

Desperate to keep the Lisbon Treaty alive, the large states faced a simple fact: that without the ratification from Ireland, the Lisbon Treaty could not come into force and the Nice Treaty would remain in force. The large states saw the Lisbon Treaty as benefiting them. For instance, under the terms of the Lisbon Treaty the new definition of QMV favoured larger states because it included a population criterion. The post of permanent President of the European Council was established on the initiative of France, Spain and the UK, backed by Germany and Italy. The post of a High Representative for Foreign Affairs was created on the initiative of France and Germany. The large states no doubt wanted to implement these institutional reforms. In addition, the large states were not at any point prepared to re-open another treaty negotiation, because it would have provided certain countries with Eurosceptic leaders, such as Poland and the Czech Republic, with a chance to reassert their intractable position. From the Constitutional Treaty negotiations to the Lisbon Treaty negotiations, many government leaders had grown tired of disputes with these Eurosceptic leaders which had dwelt on the definition of QMV, to give one example. Therefore, the large states saw great merit in continuing the ratification of the Lisbon Treaty even though it entailed a concession to Ireland regarding the size of the Commission.

In the run-up to the Brussels European Council in December 2008, the Irish government, backed by the French Presidency, presented a series of demands to the other governments. The Irish government asked to retain the system of one Commissioner per state as an 'indispensable condition' for holding a second referendum (*Irish Times*, no. 9800, 10 December 2008). The other governments accepted the Irish request and, following this, Brian Cowen announced that Ireland would hold another referendum on the Lisbon Treaty (*Irish Times*, 12 December 2008; 13 December 2008).

This negotiation process shows that after the Irish 'No' vote, some states employed threats of exclusion by suggesting a move forward for the Lisbon Treaty, without Ireland. With these threats of exclusion, the other governments urged the Irish government to hold a second referendum. At the same time, the other governments offered an idea of making mutual concessions, by providing Ireland with the opportunity to specify the causes of Ireland's anxiety concerns and proposing the necessary guarantees to alleviate the Irish concerns. Importantly, the other states, apart from the Benelux states, showed a willingness to accept the system of one

Commissioner per state. By signalling this, the other states made it easier for the Irish government to request it.

#### *Negotiations on the definition of Qualified Majority Voting in the 2003-4 IGC*

In the EU, different legislative procedures are laid down for different policy areas. Unanimity is still required for some sensitive areas, such as defence, social security, and taxation. But after a series of treaty reforms which have been carried out since the middle of the 1980s, a large majority of policy areas have moved from requiring unanimity to a special majority voting system called 'qualified majority voting (QMV)'.

Under the QMV system, each state is allocated a number of votes in rough proportion to the size of its population, although smaller countries have more votes per head of population than larger ones do. Under the terms of the Nice Treaty, the four largest states – Germany, France, the UK and Italy – were entitled to 29 votes each, while Malta, the smallest country, had 3 votes. In the 28-state EU, as of 2014, in accordance with the Nice formula, a qualified majority can be reached when the following three conditions are satisfied: if a minimum of 260 votes out of a total of 352 is cast in favour of the proposal, if a majority of Member States approves (in some cases a two-thirds majority), and in addition, if a Member State can receive confirmation that the votes in favour represent at least 62 % of the total population of the EU.

In the Constitutional Treaty negotiations which started in 2002, large states, France and Germany in particular, called for the abolition of the Nice formula and pressed for the introduction of a new method called a 'dual majority voting system' made up of a certain number of member states and a population criterion. Underlying their insistence was their consideration that the decision-making of the Council, a central legislative organ of the EU, would slow down if an enlarged EU were to include a number of medium-sized or smaller countries. Furthermore, if the Nice formula were maintained, they argued, it might bring about an imbalance which would make it more difficult for larger countries to influence the decision-making and the kind of situation in which smaller countries, acting in unison, could dominate the decision-making process by passing or blocking legislative bills at their discretion.

In response to the strong insistence of the German and French governments, the draft Constitution completed in June 2003 proposed the introduction of a totally new QMV system, called a double majority voting system (see above). Under the proposed system, QMV could be satisfied by the agreement of a majority of member states, representing more than 60% of the EU population, on a bill under legislation.

However, Spain and Poland voiced their strong opposition to the new system (Cimoszewicz & Palacio, 2003). Under the Nice system, these two states were allocated 27 votes each, only two votes fewer than the 29 votes given to each of Germany, France, the UK and Italy. When

the new system of double majority voting was accepted, the voting strength of Spain and Poland would significantly decline, while the system would cede more power to the larger states, such as Germany and France, which were the most populous in the EU. Exposed to such a risk, Spain and Poland fought back against the introduction of the new system, suggesting the use of their veto to block the agreement. However, the government leaders of Germany and France responded with an uncompromising attitude on this issue.

Due to the fierce confrontation, the negotiations fell into deadlock; in fact the summit meeting which was held in December 2003 broke down. However, significantly, only one month later, from early January 2004 onwards, the political leaders of these two states softened their opposition and seemed more flexibly disposed towards the introduction of the new system (McDonagh 2007: 116-8; Interview 6). The drastic change in attitude was induced by a combination of threat, the linked threat and the threat of exclusion, exercised by Germany and France.

First, Germany and France resorted to linked threats, making full use of the multi-annual budget negotiations which were ongoing in parallel. When the IGC negotiations were formally opened in September 2003, the government leaders of these two states repeated that the IGC and the budget negotiations were 'naturally linked' (*Agence Europe*, no. 8547, 23 September 2003). What they implicitly expressed here was the determination that if Spain and Poland did not make any concession on the QMV issue, they would consider decreasing the total amount of the EU budget, thereby reducing the amount of expenditure that would be directed towards the regional development of these two states.

After the summit meeting at the Intergovernmental Conference collapsed in December 2003, France and Germany exerted further pressure on Spain and Poland. Only two days after the breakoff, France and Germany, along with the four other states (the UK, the Netherlands, Sweden and Austria), sent a letter to the President of the European Commission which called for a substantial reduction in the EU budget from the then 1.24 % to less than 1% of GNI (gross national income) (*Agence Europe*, no. 8608, 17 December 2003. *El Pais*, 16 Diciembre 2003). All these six states were at the time net contributors to the EU budget and, for this reason, they had a stronger voice in the process of budgetary planning. By making full use of their advantageous position, they put pressure on Spain and Poland to concede on the QMV issue.

The other threats wielded were threats of exclusion. When it became evident that it was impossible to reach final agreement on the Constitutional Treaty at the summit meeting in December 2003, France and Germany, along with Italy and the three Benelux states, showed a resolve to issue a declaration that they would advance a differentiated Europe (*Agence Europe*, no.8606, 15 December 2003). These states actively approached other states, encouraging them to join in this declaration, but they eventually refrained from making it. However, the leaders of

these states repeatedly made clear their intention to move towards a multi-speed Europe. For example, Gerhard Schröder, the then German Chancellor, when asked by the media about the possibility of failure in reaching consensus, answered 'Then two-speed Europe would be the logical consequence. We do not want this, but we are prepared to do so' (*Agence Europe*, no. 8606, 15 December 2003). Likewise, the French President Jacques Chirac also stated in the media that 'Europe is built on solidarity and not on blocking capabilities ... within a Europe of 25, soon to be 27 and more, we cannot all proceed at the same pace. The most reluctant should not slow down those who are determined to go further and faster. Germany and France are naturally at the heart of the pioneer groups. I am forming the wish that we can go forward with the other founding countries, plus Great Britain, and all those old and new Member States who want to give extra soul and strength to the European Union' (*Agence Europe*, no. 8627, 21 January 2004). The pressure on Spain and Poland further intensified, since the other states and EU institutions had also sided with France and Germany in suggesting a move towards a multi-speed Europe.

Following such a series of threats, Spain and Poland, within only a month of the December summit meeting, started to show more flexibility. In January 2004, in a TV broadcast, Leszek Miller, the Polish Prime Minister, announced 'we are not going to show the white flag but we are ready to find compromise and common solutions' (*AFP*, 10 January 2004: translated by the author). Likewise, the Polish Foreign Minister, Włodzimierz Cimoszewicz also stated through the French media 'We are not blind to the reasons, arguments and expectations of our partners ... it is with close attention that we shall now listen to the arguments of our partners on the most important issues' (*Agence Europe*, no.8624, 16 January 2004). The message of the Spanish Foreign Minister, Ana Palacio, was also cooperative in tone, stating that the government was now open to 'constructive proposals' (*AFP*, 19 January 2004).

Keeping in line with these statements, the Spanish and Polish governments also began to take a more accommodating stance. The Irish government, which held the Presidency in the first half of 2004, hosted intensive bilateral consultations with its Spanish and Polish counterparts with the objective of resolving the deadlocked treaty negotiations. In the course of the consultations, the Irish government noted that both the Spanish and Polish had become more positive about the introduction of the double majority voting system, which these two stated they had adamantly refused to accept hitherto (McDonagh, 2007: 101-14). In the wake of the shift in their negotiating stance, the Irish government began to feel that it would surely be possible to resolve the impasse in the negotiations, by a solution based on the system of double majority voting.

On 11 March 2003, train bombers attacked Madrid. This incident was widely believed to have had a crucial impact on the outcome of the general elections three days later. In the

elections, the Popular Party led by the long-serving Prime Minister José María Aznar López suffered great losses and a new Socialist government was formed under José Luis Rodríguez Zapatero. The new administration made it clear that, as their general guideline in foreign policy, they would re-establish relations with France and Germany, against which the previous government had created a confrontational atmosphere ever since the split between them over the Iraq War. As part of this, the new Prime Minister clearly stated that he would aim to collaborate with Germany and France in reaching consensus on the Constitutional Treaty, and would itself accept the system of double majority voting. Following Spain, the Polish government also admitted publicly that it would accept this voting system.

The EU member states gathered together at Brussels in late March 2004 and decided to re-open the negotiations on the Constitutional Treaty with an view to concluding their negotiations at the June summit meeting. As Spain and Poland had already announced a change in their stance in favour of some sort of double majority voting system, the focus of the debate then shifted to what should be given to these two states in return for their concessions. Their biggest concern was that Germany, France and the UK would reinforce their voting strength under the proposed double majority system due to the extreme size of their populations, while Spain and Poland would suffer significant loss in their voting power. Here, in order to alleviate this concern, it was agreed to raise the population threshold from 60% to 65%, and to introduce a clause in the new treaty that at least four member states must be required to block the passage of a legislative bill (Piris, 2007: 101-14). These two measures, it was expected, would enhance the blocking power of Spain and Poland in the decision-making, and at the same time would somewhat reduce the influence of the largest countries in the decision-making of the Council. In addition, it was also agreed to raise the threshold for the percentage of states from 50% to 55% so as to increase the voting power of smaller states. It was agreed that the new voting system would be introduced in 2014 or later.

The Spanish and Polish leaders recall the process leading to this conclusion as follows. The Polish President Kwasniewski, for his part, explained the reasons behind their concessions: that he himself had refrained from breaking up the negotiations so as not to damage the Polish standing in the budgetary negotiations and the Constitutional Treaty negotiations (*Euractiv*, 24 June 2004). As regards the move towards a multi-speed Europe, he mentioned that such a move would in the future lead to differentiation between a core group of states and the others, and 'such a two-tier design' was 'in fact most dangerous', in the sense that it would widen the gap between the old and new member states (*AFP*, 19 December 2003). The Polish Minister for European Affairs, Danuta Hubner, also revealed that Poland 'would have preferred not to have parallel discussions on the Constitution and the budget' (*Agence Europe*, no.8606, 15 December 2003). All these statements indicate that the threats to Poland and Spain had had an effect on

breaking down to some extent the intransigence of these two states.

## **Conclusion**

From the three cases outlined above, we can find empirical evidence to support the three hypotheses as derived in the previous section. That is, in all the three cases, we find that offensive threats were used in a way that satisfied all three conditions: material resources, the structure of cost-benefit on the part of the threatening states, and the existence of normative structures.

First, all three cases have in common the fact that a large state – Germany, France or Britain – had taken the lead in uttering the threats. Although there were cases where other states joined in the threats in order to step up the pressure on a targeted state, it was the large states which played a leading role in instigating them.

Second, these three cases also have in common the fact that some returns were granted to the threatened states for their concessions. On the issue of the size of the Commission, the large states put pressure on the small states, but at the same time, the large states accepted the introduction of the rotation system in order to somewhat alleviate the others' concerns. In the case of the Irish problem, the large states pressed strongly on the Irish government and in return agreed to maintain the system of one Commissioner per state. On the definition of QMV, after the Spanish and Polish positions softened, it was agreed that the decision-making power of these two states should to some extent be raised.

Third, it should be noted that, in every case, all the threats were employed in conformity with the general objectives of the negotiations. In the case of the size of the Commission, one of the main objectives of the Nice IGC was to reform the EU so as to make it work smoothly after an enlargement. The reduction in the number of Commissioners corresponded to this objective. At the time, it was anticipated that, if the number of Commissioners increased, its internal decision-making process would slow down and the cohesion among the Commissioners would also be weakened. To address this concern, the large states threatened to force the small states to accept the reduction in the number of Commissioners. Next, in the case of the Irish problem, the Member States faced a situation in which the Lisbon Treaty could not come into effect unless it was successfully ratified in Ireland. The Lisbon Treaty was originally elaborated with the objective of enhancing various aspects of the EU, such as the quality of its democracy, the effectiveness of its working and its external policies. Threats were used against the Irish government for the purpose of ratifying the Lisbon Treaty. In the case of the negotiations on the definition of QMV, France and Germany resorted to threats to ensure the introduction of the double majority voting system. The new voting system, it was believed, would strengthen the decision-making capacity of the Council, even if many new countries acceded to the EU. In



short, all these threats were employed in order to address important problems faced by the EU. In this sense, it can be said that the large states made use of these threats since their successful use would serve not only their interests but also the general interests of the EU.

On the basis of the empirical findings from analysing these three cases, I argue that three sets of conditions have to be met for the effective use of offensive threats. Only three large states – Germany, France and the UK – can play a leading role in instigating threats. Second, the effect of threats can be enhanced if a threatening state offers some kind of return to the threatened states for the concessions that they are being asked to make. Minor returns of some sort can make it easier for the threatened states to make concessions. Third, the threats have to be used in conformity with the general objectives of the negotiations. It is concluded that these three conditions, taken together, can further the chances of successfully threatening other governments without bringing about severely adverse effects on the relationship between them and the government uttering the threats.

It should be noted that in all three cases, there is no evidence that the relationships between the threatening and the threatened states have deteriorated in consequence of the use of threats. In this respect, it may be possible to say that, for one thing, the use of threats was ‘justified’ in each situation, since the objective of the threats was to achieve the stated objectives of the negotiations. None of the threats used in these cases violated the existing rules of the EU and, in this sense, the use of threats did not express any intention on the part of the threatening states to deny the existence of the EU as a whole. Rather, the threats were aimed to address various problems facing the EU. It can be said that, because their legitimacy can in some ways be conceded, the use of threats did not invoke unmitigatedly hostile sentiments on the part of the threatened states. Furthermore, there is also the possibility that some minor return which was given to the threatened states for their concessions also successfully contributed to reducing the risk of worsening the relationship between the governments involved. It can be inferred that the returns had some effect on saving the face of the countries which succumbed to the threats and on reducing the substantial loss incurred by them, thereby successfully limiting to a minimum the risk of deterioration in their relationships.

In the literature on EU treaty negotiations, there is a view that national governments can block reforms which they do not want by resorting to their right of veto. There is also the view that the outcomes of EU treaty negotiations tend to come close to the lowest common denominator, since the member states usually seek consensus, with the aim of maintaining a cooperative relationship. In opposing such views, the analysis provided in this paper suggests that in certain conditions, large states can advance reforms in the EU by overcoming even strong resistance from other states, by means of threats of exclusion or linked threats. The empirical analysis above reveals an important aspect of the bargaining power which can be exercised by

large states. In this paper, the empirical focus rested on three cases only. For future studies, it is important to consider whether the insights provided in this paper can be generalised by accumulating further case studies. It is also important to consider the generalisability of the present argument by extending our empirical perspective to other international or regional organisations.

### Interviews

Interview 1: Belgian government official, 11 April 2012, Brussels.

Interview 2: Dutch government official, 13 April 2012, The Hague.

Interview 3: Finnish government official [1], 10 May 2012, Helsinki.

Interview 4: Finnish government official [2], 10 May 2012, Helsinki.

Interview 5: Greek government representative to the Nice IGC, 6 March 2012, Athens.

Interview 6: Irish government official, 10 June 2012, London.

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