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**The strength of the rotating Presidency is that
it keeps the Presidency weak**

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1. Introduction

One of the most important justifications for the adoption of the Treaty of Lisbon was that the introduction of a fixed President of the European Council would result in a more efficient Europe. During the negotiations serious attempts were made to strengthen the Presidency at the Council of Ministers level, including proposals to allow the European Council President to chair the General Affairs Council. Underlying these reform efforts is the argument that the Presidency as an institution is unable to supply effective leadership, and in particular that smaller member states are manifestly unable to lift the burdens of the Presidency in an enlarged Union.

Yet is the Presidency broken? Should further efforts be made to reform the Presidency institution? Contrary to the popular wisdom, this paper questions the basic premise underlying the reform efforts by providing evidence that while the powers possessed by the Presidency are relatively weak, it is the very weakness of the Presidency that makes it an effective leader. Drawing upon recent advances in the study of informal norms in the Council and leadership theories, this paper first discusses what types of leadership are demanded in the Council. It is argued that given the consensual and long-term iterated game nature of EU decision-making, consensual forms of leadership are the most effective at achieving maximum possible gains from cooperation. In this type of leadership, the leader manages the agenda in an acceptable fashion to all, and finds, formulates and brokers acceptable compromises. Acceptable is not the same as being neutral, and an instrumental leader can exploit its position for private gains, but it cannot be too blatant as it is in more hegemonic forms of leadership.

While larger member states (sometimes) believe that their great power resources enable them to adopt a more imposing style of leadership, smaller state Presidencies live under no such illusions. Smaller state Presidencies are forced by necessity to 1) adopt a more consensual style of leadership, as they lack the great power resources that could enable them to impose their preferred outcomes upon other delegations, and 2) rely more upon the Council Secretariat, as they lack the administrative and diplomatic resources necessary to fulfill all of the tasks of the Presidency. Yet relying on the Secretariat has advantages, as the Secretariat possesses a combination of unrivalled experience with finding and brokering compromises that match the consensus norms of the Council, and also enjoys a level of acceptance of their central role due to the 'disinterested' status it has in most negotiations in the Council / European Council, along with their careful cultivation of a reputation for impartiality.

The term efficiency is defined in this paper as achieving agreements where no significant gains are left on the negotiating table while also minimizing decision-making costs. Leadership relates to the provision of functions aimed at overcoming collective action problems that relate to high transaction costs in negotiations. This term is similar to the term entrepreneurship as used by Young (1991) and Moravcsik (1999). Finally, I define smaller member states as those states that while they might possess many administrative resources do not have the economic and political muscle that the larger countries have. Therefore I define the Netherlands and Portugal and below as smaller member states, and larger countries as Spain and Poland and above. This dividing line is reflected in the large jump in the Nice voting weights from 29 for the big five, 27 for Poland and Spain, and then 12-13 for countries like Belgium, Greece, the Netherlands, and Portugal. One could create a more realistic weighting of Presidencies, and also include relevant factors such as national wealth or size of administration in order to create a more valid measure of Presidency size, but given the quality of the data possessed on Presidency performance, these further distinctions do not make much sense at present.

The argument in this paper is structured in four sections. In section two the contours of the debate on reforming the Presidency are introduced. Thereafter I introduce the theoretical justification for why Presidency weakness can in specific circumstances be a strength in terms of being able to supply the leadership demanded in Council / European Council negotiations. Two testable hypotheses are developed that relate to the effectiveness of consensual leadership styles and reliance upon the Council Secretariat.

The paper then assesses whether the paradox of Presidency weakness is backed by empirical evidence. I undertake a two stage empirical analysis, where I first utilize quantitative data to assess whether smaller states are as effective leaders in terms of the legislative output of the Council of Ministers, and then investigate whether we see evidence that smaller member states utilize more consensual approaches. Given the difficulty in validly measuring the key independent variables using quantitative data (leadership style adopted and reliance on the Council Secretariat) and the dependent variable (efficiency), the analysis is supplemented by a more in-depth qualitative investigation of intergovernmental negotiations within EU treaty reform negotiations (IGCs). The choice to investigate IGCs is made in order to concentrate specifically on intergovernmental dynamics between governments, whereas in normal Council decision-making other supranational actors like the Commission also have a significant leadership functions. Further, while IGCs

formally take place outside of the EU institutional framework, governments behave in a similar manner as in normal EU business.

The conclusions of the paper discuss the empirical findings that show that smaller member states are at least as effective leaders as larger member states, and in many circumstances are even more effective. These findings suggest that the attempts to fundamentally reform the Presidency have not been a product of ‘rational’ institutional design concerns motivated by a need to improve the efficiency of EU decision-making, but instead should be seen as a part of the French-led strategy to create a more intergovernmental EU dominated by larger member states.

2. The debate on the need for a ‘strong’ Presidency

The debate on reforming the rotating Presidency flared up in the late 1990s as the prospect of a ‘big bang’ enlargement with up to ten countries moved closer. The Trumpf-Piris report from 1999 argued that the six-month rotation was a ‘major handicap’ for the continuity of work in the Council, and that there often was a lack of experience and expertise amongst member state officials for shouldering the burden of the Presidency; a problem that would only be exacerbated in a Union of 25 to 30 members as the increase in the length of time between holding the Presidency would result in a lack of institutional memory. The short term period also resulted in what the report termed ‘a rush which can lead to the adoption of makeshift decisions or a proliferation of badly drafted or non compulsory acts (resolutions, conclusions).’¹ This report formed the basis for discussions that led to the pragmatic reforms adopted at the Seville European Council that were aimed at increasing the coordination between Presidencies.²

The Seville Conclusions did not stop the debate that continued on whether more fundamental reforms of the Presidency were necessary.³ Parallel with other attempts to assert the dominance of larger member states in the Union, including informal coordination of positions between the five larger member states during the 2000 IGC,⁴ the leaders of several of the larger member states (Britain, France and Spain) raised the idea of creating a permanent ‘president’ in order to inject

1 - Trumpf-Piris report, Report by the working party set up by the Secretary-General of the Council, Operation of the Council with an enlarged Union in prospect, presented on 10 March 1999 in accordance with the conclusions of the Vienna European Council held from 11 to 13 December 1998.

2 - Seville European Council, 21 and 22 June 2002, Presidency Conclusions. 13463/02. Brussels, 24 October 2002.

3 - See Bunse, Magonette and Nicholaïdis 2007 for more on this debate.

4 - Beach 2005:148-149.

more political leadership into the Union in the wake of enlargement. Central to the ABC proposals was a diagnosis that the rotating Presidency would be unable to supply the leadership demanded in the Union in an enlarged EU, irrespective of the changes adopted in Seville. First, they were concerned about a lack of continuity resulting from a shift in priorities every six months. But more importantly, these larger member states feared that the smaller member states (and in particular mini-states like Malta and Cyprus) simply did not have the administrative and technical resources to lift the burden of the Presidency effectively, and that smaller states also lacked the political ‘muscles’ that could be used to provide political leadership in an ever-more complex Union.

For example, Aznar, in a speech at Oxford in May 2002 stated that,

Allow me to tell you, after four months of experience of the Spanish Presidency of the European Union, to tell you that it is necessary to modify the current system of presidencies. The present system, whereby the Member States take turns to hold the presidency for six-month periods, is beset by difficulties, but will become impracticable in the future. Studying the matter from the standpoint of ensuring the effectiveness of the institutions, it seems essential to formulate a new design. I agree with those who think that a good solution to this problem would consist of the President of the European Council having a longer mandate... A President elected in this way could be helped by a presidential team made up of five or six Heads of State and Government, in accordance with a rotating system. This group of countries would be responsible for presiding over the sectoral councils, thus assuring the continuity and consistency of the work. Presided over in this way, the European Council should continue to be the political apex of the Union. This institution would be responsible for deciding the Union’s political guidelines and strategies and for safeguarding the fundamental balance between all the institutions.

Once this large state agenda (termed ABC after its proponents; Aznar, Blair and Chirac) was on the table, it became a key topic in the Convention, where debates focused upon whether a permanent president should be created, the length of term and what powers the president, if created, would be granted; in particular whether the president would only chair the European Council, or would also chair certain ministerial councils such as the General Affairs Council, as was proposed by Tony Blair. On the other side of the issue were most of the smaller member states, who argued that rotation was a key strength of the Presidency and that creating a permanent president would result in an EU dominated by larger member states, as the new president would most likely be dependent upon support from the larger states.

The final result of the Convention and subsequent IGC was a compromise between these two positions, where a president with few formal powers would be elected to chair the European Council and provide political leadership at the highest level, whereas the existing rotating Presidency would still exist, although with increased inter-Presidency coordination mechanisms (which need to be fleshed out in subsequent negotiations).

The premise of this paper is however that the larger member state agenda builds upon a false diagnosis of the problems of Council / European Council decision-making; namely that what is needed are stronger leaders with stronger powers. This paper questions this by testing whether smaller states are really ineffective leaders in the Union. Do we see systematic evidence that shows that smaller states holding the rotating Presidency are unable to lift the burdens of the Presidency, resulting in their inability to push legislation through the Council, or their inability to secure major deals in European Councils on matters such as treaty reforms? It is contended that the opposite is often the case due to what is termed the paradox of Union leadership, where ‘weakness’ can actually be a strength when the weakness of the Presidency institution forces governments to adopt a more consensual style of leadership while at the same time they are forced to rely more on the Council Secretariat for assistance. In the next section a theoretical argument for why ‘weakness’ can be a strength is introduced which will be tested in the following sections of the paper.

3. A theoretical explanation for why Presidency ‘weakness’ can be a ‘strength’

How can the weakness of a leader ever be a negotiating strength? The dependent variable in this paper is efficient bargaining outcomes in the Council and European Council, defined as achieving agreements that maximize the gains of cooperation while minimizing the decision-making costs. The independent variables are the two factors that determine variations in output efficiency; the demand for leadership and the ability to supply leadership. The demand for leadership in a given situation is a function of the political interests that governments have in achieving an agreement and the size of transaction costs relating to collective action problems. The ability to supply leadership relates to whether the potential leader possesses the requisite resources to supply leadership and the degree to which the chosen leadership strategy matches with the consensual norms that dominate Council / European Council decision-making. Efficient outcomes are achieved when the supply of leadership matches the type of leadership demanded. When supply is less than demand, suboptimal

outcomes are the result. The final part of this section combines these factors and provides a testable theoretical argument for when we should expect Presidency ‘weakness’ to be a strength.

The demand for leadership in the Council / European Council

A necessary condition for leadership to be demanded is that governments must want some form of collective agreement in the Council / European Council. Leadership is then demanded in order to overcome transaction costs. Transaction costs can range from the costs of gathering and analyzing all of the information necessary to understand a given negotiating context, to the difficulties of finding mutually beneficial deals in situations where communication is difficult and actors have incentives to exaggerate their bottom-lines. Complex, multiparty negotiations are therefore not necessarily efficient, given that transaction costs can present formidable barriers between the ‘best deal possible’ and what can actually be attained.⁵

Leadership is usually defined as the exercise of functions that help the parties overcome these transaction costs that hinder efficient collective action, enabling the attainment of more efficient outcome than would have occurred without coordination. These functions can either be functions formally delegated by the parties such as the chair, or more informal delegation of agenda-setting or brokerage powers, where the parties ask an actor to manage the agenda, table proposals that potentially form focal points for further discussions, and help find and broker compromises without granting them formal powers. This definition of leadership echoes what Young termed ‘instrumental’ leadership.⁶

What collective action problems prevent governments from achieving cooperative deals? Here I will focus upon three negotiating ‘bottlenecks’ that create a demand for leadership. First, is the problem of *agenda failure* which can occur when all parties have equal agenda-setting opportunities.⁷ Instead of agreeing upon a common focal point for the negotiations, rational parties will keep tabling their own preferred outcome. This is depicted in figure 1, where rational governments have incentives to keep tabling their own preferred outcome. A rational solution to this is for the parties, if they have interests in reaping the benefits of collective action, to delegate agenda control to an actor.⁸ The leader can then act as a centripetal force, utilizing agenda-management techniques such as deciding what issues are to be debated and order, propose focal

⁵ - For an accessible introduction to the debate on transaction costs and their impact upon negotiations, see Scharpf 1997.

⁶ - Young 1991.

⁷ - Tallberg 2006.

⁸ - Ibid.

point around which negotiations coalesce.⁹ The risk of agenda failure is exacerbated by the number of parties in a given negotiation – the more parties, the greater the demand for leadership in order to manage the agenda in order to create a focal point for cooperative agreements.

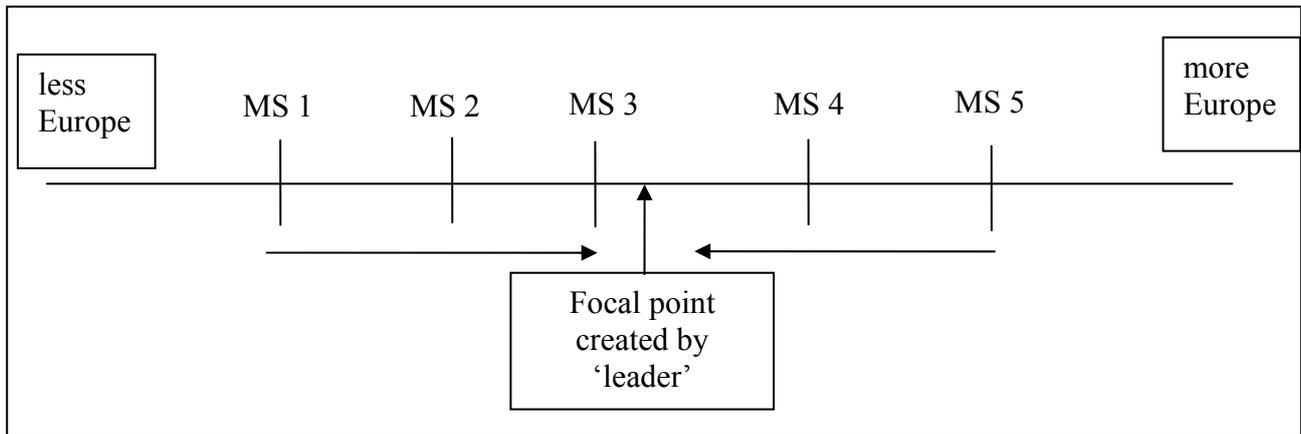


Figure 1 – The leader as a centripetal force in multiparty negotiations.

Second, in negotiations that have a distributive dimension, the parties have incentives to conceal information about their true preferences. This is what Lax and Sebenius termed the ‘*Negotiator’s dilemma*’, where sincere cooperative moves such as the disclosure of one’s bottom-line can be exploited by other actors that are not as forthcoming, impacting upon one’s ability to maximize gains.¹⁰ Tallberg argues that the functional solution to this dilemma is to delegate brokerage responsibilities to an actor, enabling the broker to gain information about the private preferences of the parties and formulate an acceptable compromise based upon this information that would otherwise elude the parties.¹¹

Finally, issue complexity is often a significant transaction cost that can hinder governments from achieving maximum gains from cooperation. Many issues negotiated within the EU involve laborious efforts in first identifying often ill-understood problems created by interdependence between states, and then finding and reaching mutually acceptable solutions in the form of contractual agreements. This can lead either to less efficient agreements or even to bargaining failure.¹² In such circumstances, leadership that diagnoses the problems facing states and helps craft

⁹ - Beach forthcoming; Tallberg 2006.

¹⁰ - Lax and Sebenius 1986.

¹¹ - 2006.

¹² - Hopmann 1996:258; Stubb 2002; Tallberg 2003.

solutions is necessary to help governmental negotiators *find* the Pareto frontier of mutually acceptable agreements.¹³

The ability to supply leadership

What factors determine variations in the ability to supply leadership? I theorize that the ability to provide leadership in Council / European Council negotiations is a function of whether the potential actor possessing the requisite informational and procedural resources, and whether the leadership style matches the prevailing consensual norms of Council / European Council decision-making.

First, a potential leader must possess the required informational and procedural resources necessary to provide leadership. In order to act as an agenda manager or broker the potential leader needs to possess the bargaining skills and the procedural tools such as being responsible for structuring the agenda of specific meetings. In order to help governments understand issues, the potential leader must possess sufficient technical and legal expertise in order to be able to provide assistance with defining problems and formulating solutions to them.

Second, it is theorized that in order to be able to supply leadership that the leadership style adopted by the potential leader must match with the consensual norms of Council and European Council decision-making. Cooperation in the EU is what can be termed a very long-term 'iterated game'. One of the strengths of the EU, and what for example prevented the resurgence of balance of power politics within the EU after German reunification, is the principle of *shared leadership*.¹⁴ This refers to the *lack* of a hegemonic leader in the EU; instead cooperative norms have developed that affect the type of leadership demanded by governments which build upon the long-term iterated game nature of Union decision-making.¹⁵

Yet given the long-term iterated nature of the EU, the best long-term strategy for participants is one of *broad* cooperation instead of very competitive and aggressive strategies where one stabs one's opponents in the back whenever one can get away with it. In this theorization of EU cooperation, actors are still viewed as instrumental and self-interested, but given the *extremely* long-term nature of the game it would be extremely costly for actors to engage constantly in a synoptic calculation of the costs and benefits of cooperation in every situation. Instead, as a cognitive short-cut, these long-term utility calculations become embedded as cooperative norms that form the

¹³ - Young, 1991:283; Underdal, 1994:188.

¹⁴ - Bunse, Magonette and Nicolaidis 2007.

¹⁵ - See Lewis 2005; Lewis forthcoming.

background for actor behavior in the Council / European Council so that they form what March and Olsen termed a logic of appropriate action.¹⁶ Examples of the existence of these types of norms include the behavior that Jeffrey Lewis has documented at the COREPER level, where actors spend considerable time searching for consensus even after a viable majority exists, and exercise self-restraint in abstaining rather than vetoing a measure under unanimity,¹⁷ and that other scholars have documented even in the ‘least likely’ case of EU foreign policy making.¹⁸

The implication of the existence of these consensual norms is that the type of leadership demanded is *usually* not an imposing leadership strategy of bashing heads together to create a zone of possible agreement, but a more consensual one aimed at maximizing potential gains within existing zones of agreement.

When weakness can be a strength

Why then can the weakness of a Presidency actually be a strength? Based upon the demand-supply leadership model developed above, it can be expected that potential leaders that do *not* have strong material or formal procedural resources will recognize that they are unable to *impose* solutions upon other governments, and therefore they will be forced to rely upon consensual strategies in order to supply leadership. While larger member states often assume that their great power status enables them to utilize their great power resources in an attempt to impose outcomes upon other delegations – most evident in France’s case during its chairing of the 2000 IGC (see below) – smaller states (usually) do not hold these illusions, and therefore they will tend to be forced by necessity to utilize more consensual leadership strategies. Further, while the Presidency of the Union does possess many procedural powers, none of the powers enable a Presidency to *impose* solutions upon other Council members. For example a Presidency ‘compromise’ must be accepted by a very large majority in issues where QMV is used, and unanimously in other issues. The lack of strong procedural powers also necessitates that the Presidency adopt consensual leadership strategies. Yet as pointed out above, given the iterated game nature of EU decision-making, these consensual leadership strategies actually fit better with the shared leadership norms of the EU.

¹⁶ - March and Olsen 1998. There is debate in the literature about the degree of self-interest in cooperative norms (see Checkel 2005), but for the purposes of the article it is less important whether these norms become so internalized that one can no longer speak of calculations of interest or not – what is important is the existence of the cooperative norms themselves.

¹⁷ - Lewis 2003, 2005.

¹⁸ - Tonra 2001; Juncos and Pomorska 2007.

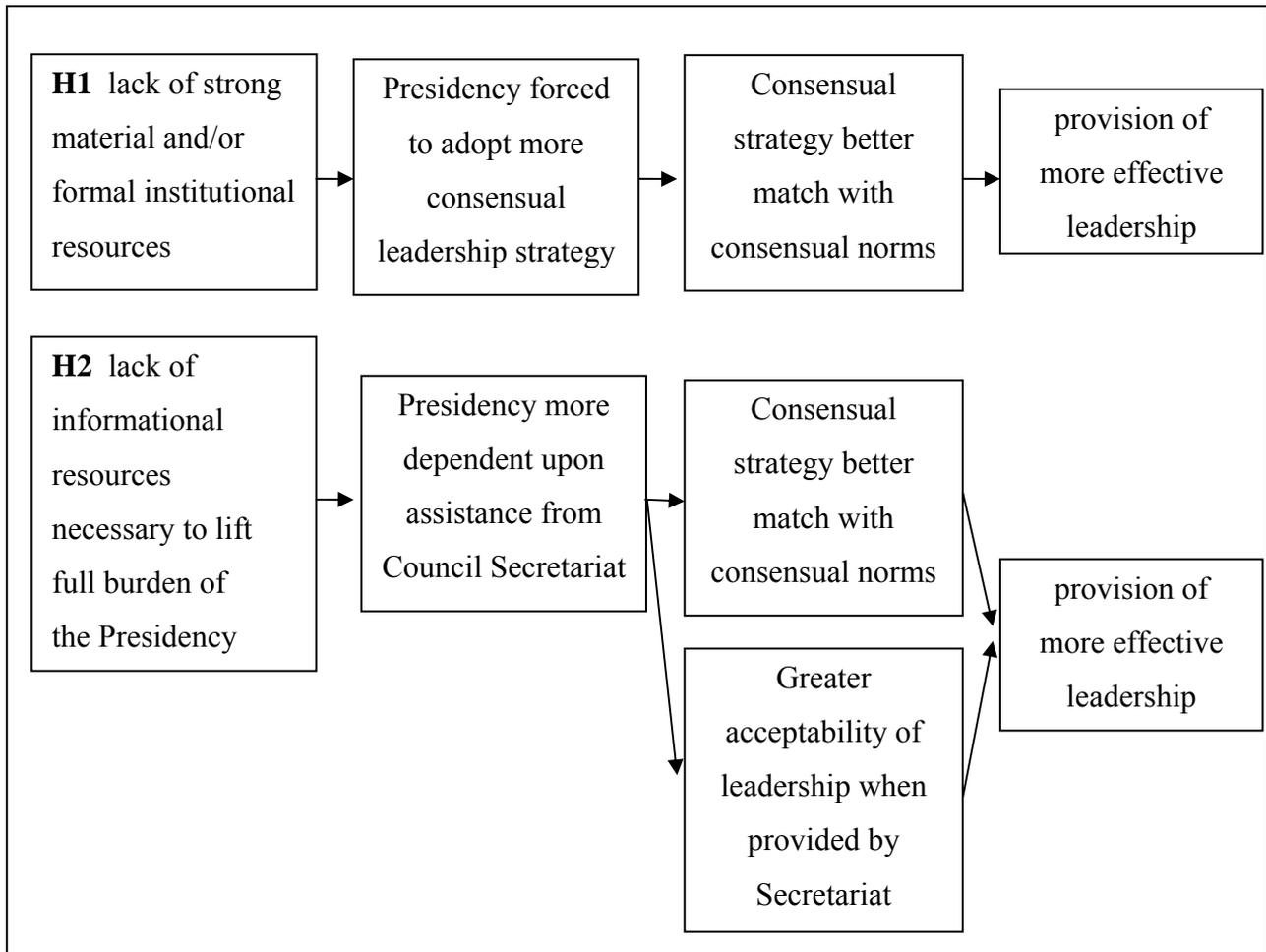


Figure 2 – The two ‘Strength through Weakness’ hypotheses

Second, in comparison to larger member states, smaller member states often lack the administrative and diplomatic resources necessary to lift the full burden of the Presidency. However this weakness can also be an advantage if the smaller state chooses to draw upon the assistance of the Council Secretariat in order to overcome the lack of resources. While Presidencies come and go, the Secretariat is permanent, and in many respects acts as the institutional memory for how to conduct effective negotiations in the Council. As I have argued extensively elsewhere, the Secretariat possesses a combination of unrivalled experience with finding and brokering compromises that in a manner that meshes with the consensus norms of the Council. Further, the Council Secretariat enjoys a level of acceptance of their central role due to the ‘disinterested’ status it has in most negotiations in the Council / European Council, along with their careful cultivation of

a reputation for impartiality.¹⁹ For example, smaller state Presidencies often delegate almost all of the drafting of texts to the Secretariat as they do not have the legal or administrative resources to properly draft legally binding texts. However this ‘weakness’ is also often a strength. When London or Paris tables a draft text on a sensitive issue such as the powers of the Commission, other governments will often view it with a degree of suspicion, if not outright distrust. In contrast, the same wording drafted by the Council Secretariat would be more acceptable to all. Therefore, it is hypothesized that smaller member states that are dependent upon the Secretariat will tend to be more efficient leaders than larger member states that attempt to go it alone, other things being equal.

The critical test is however whether there is empirical evidence supporting this ‘Strength through Weakness’ hypothesis. This will be investigated in the next section by investigating whether we see systematic differences between the effectiveness of larger and smaller member state Presidencies – i.e. between ‘stronger’ and ‘weaker’ Presidencies.

19 - On the Secretariat’s role in IGCs, see Beach 2004, 2007. In normal intergovernmental Council decision-making, see Beach forthcoming.

4. Is Presidency weakness a strength?

The quantitative record – efficiency and consensual leadership?

I will first conduct a quantitative analysis that attempts first to measure whether we see systematic variation in the level of efficiency of Council negotiations depending upon whether it is a smaller or larger member state holding the Presidency.²⁰ The second part of the quantitative analysis will then investigate the first hypothesis by investigating whether we see evidence that smaller Presidencies adopt more consensual leadership styles. Unfortunately, no quantitative data currently exists on the reliance on the Council Secretariat, and therefore the second hypothesis will only be investigated qualitatively.

Are smaller member states able to cope with the demands of the Presidency? This question will be investigated by looking at whether we see systematic variations in the level of legislative efficiency of the Council depending upon Presidency size. Efficiency is notoriously difficult to measure, as ‘successful decisions tend to look deceptively efficient in retrospect’.²¹ Presidency effectiveness is pragmatically operationalized as meaning the legislative ‘performance’ of a given Presidency. Unfortunately, measuring legislative ‘performance’ is very difficult as there can be a variety of contextual factors that can explain quantitative differences,²² such as whether a Presidency merely coincides with the business-end of a major package of proposals initiated by the Commission, or whether work was blocked by events out of the control of the Presidency, such as the British non-participation in the Council in the spring of 1996. In addition, there can be substantial differences in the number of low salience, technical acts on the table. Finally, an increase in the *quantity* of legislative output can potentially coincide with a fall in the ‘*quality*’ of the legislation if it is enacted too hastily.

With these caveats in mind, I utilize as an indicator the number of legislative acts adopted during a Presidency relative to the total number of proposals on the table. This analysis was completed using the dataset of EU legislation created by König, Luetgert and Dannwolf (2006), which lists all proposals in the Celex and Prelex databases from the start of 1987 until the end of

²⁰ - These preliminary analyses will be supplemented in future versions of this paper with the creation of a dataset that enables a more exact measurement of legislative efficiency and the consensual strategies of a given Presidency.

²¹ - Moravcsik 1999, n. 36.

²² - For a discussion of some of the problems, see the special issue on ‘Comparing and Classifying Legislatures’ in *The Journal of Legislative Studies*, Vol. 12, No. 3.

2002. Proposals that had no adoption date were dropped from the analysis. All adopted proposals for the time period were broken down by Presidency they were adopted under (see figure 1, the full numbers and results of statistical analyses are reproduced in appendix 1).

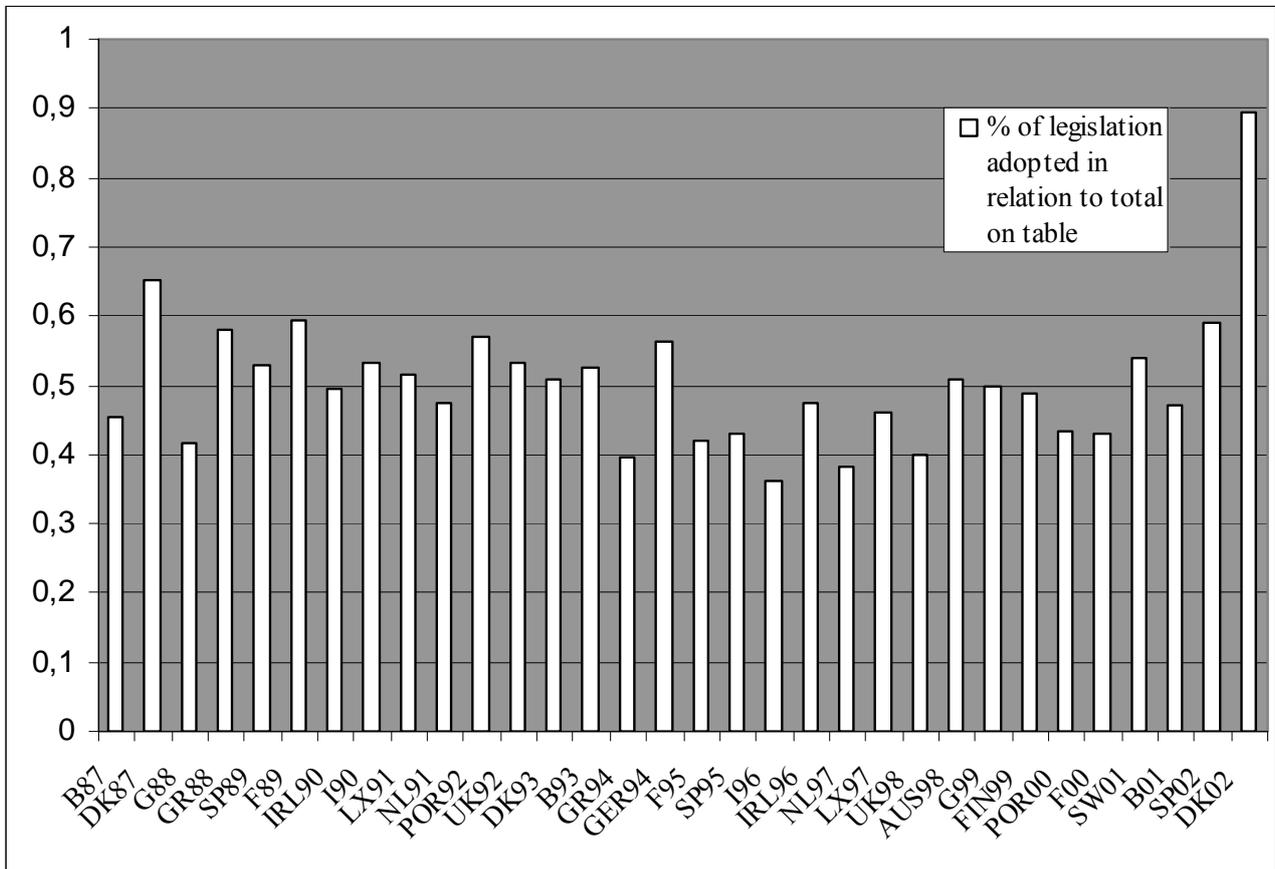


Figure 1 – Number of acts adopted during Presidency as percentage of total in pipeline.

Source: Compiled from data from König, Luetgert and Dannwolf (2006).

The average percentage of acts adopted during a Presidency in relation to the total number on the table was 50%, with smaller state Presidencies averaging 51.7% and larger 48.5%. There is however no statistical difference between the averages for the two populations due to the small size of the sample and the relatively large standard deviation across Presidencies (0.099). However, when we look at individual Presidencies, we see many smaller state Presidencies that were significantly above average in performance, including Denmark 1987 (65%), Denmark 2002

(90%!), Greece 1988 (58%),²³ whereas the UK 1998 (40%), Italy 1996 (36%) were very poor performers.²⁴ Naturally, too much should not be read into these figures given the fact that they are only very crude indicators of 'performance', and there can be many other reasons for poor performance besides the size of the Presidency. However the lack of significant differences in performance between smaller and larger state Presidencies is a first tentative indication that smaller Presidencies are at least as effective as larger Presidencies.

Are smaller Presidencies more prone to utilize consensual leadership strategies? Level of contention is measured here as the number of no votes and abstentions during different Presidencies from 1998 to 2004 using a dataset compiled by Hayes-Renshaw, van Aken and Wallace (2006). The figures are presented in figure 2. While this data must also be interpreted *very* cautiously as there can be a variety of extenuating circumstances that can explain specific figures, we can detect some patterns in the data. First, the 'top scorers' for level of contention are all large member states (Italy and Spain), although both the Irish and Dutch Presidencies in 2004 did not perform too well in this regard either.²⁵ Smaller states had a mean level of negative votes and abstentions of 53.8, whereas the larger had 93.6, although the German Presidency in 1999 is an outlier here (31). However the very low level of contention here is most likely due to the self-restraining effect that the Presidency had upon Germany itself, as Germany tends to be the most prolific user of no votes and abstention in the Council.

23 - Interestingly, Greece in 1994 rivals the poor Italian performance in 1996 (40% versus 36%). One factor that can potentially explain the good performance of the Greeks in 1988 was that it was in the midst of the massive push of the 1992 program.

24 - Here the British non-participation of the Council in the spring of 1996 impacted upon Italian performance.

25 - One explanation for this observation is that 2004 was an exceptional year, where during their first year of membership new members did not understand the consensual norms in the Council. Existing members also exhibited higher levels of contestation, perhaps adapting to the more competitive dynamic in the short-term while waiting for the new members to become socialised into the consensual norm. See Hagemann and De Clerck-Sachsse 2007.

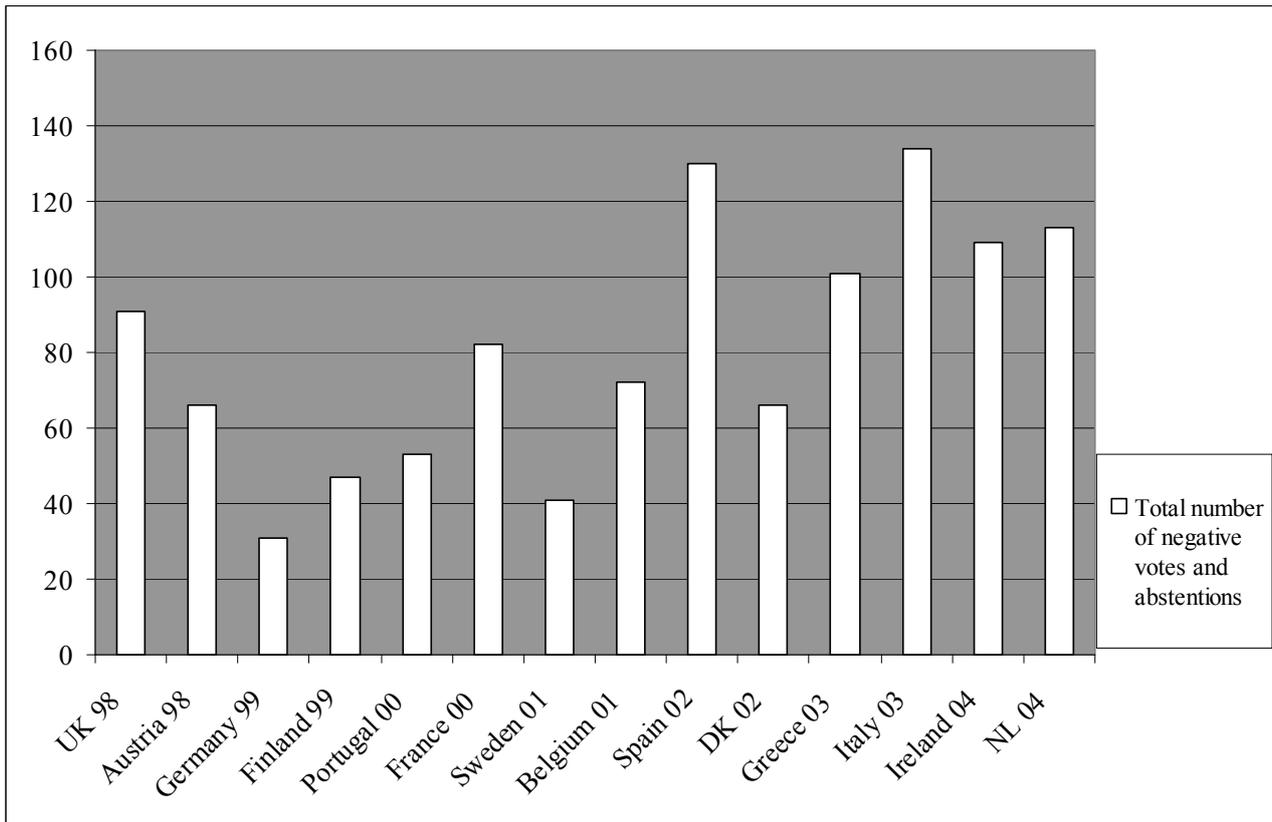


Figure 2 – Level of contention in the Council of Ministers.

Source: Compiled from data from Hayes-Renshaw, van Aken and Wallace (2006).

While too much should not be read into them, these figures do lend support to the contention that smaller state Presidencies tend to adopt more consensual styles of leadership, making them potentially more effective leaders.

Qualitative analysis – consensual strategies and reliance on the Council Secretariat?

In order to measure the theoretical concepts more directly, and in order to analyze whether the two hypotheses that link consensual norms and the reliance on the Council Secretariat with Presidency efficiency, a qualitative case study of intergovernmental Council / European Council negotiations on EU treaty reform (IGCs) is undertaken in the following. While the stakes involved in IGCs are arguably greater than normal Council decision-making, the basic negotiating dynamics (high transaction costs and consensual norms) are the same.

Negotiating efficiency is measured qualitatively by combining two indicators. First, as argued by Moravcsik (1999), did the participants themselves believe that there were viable solutions that were not adopted (gains left on table)? Secondly, when looking at the material records of the negotiations, do we find evidence of proposals that were potentially viable that were not adopted?

In the following the two hypotheses linking consensual norms and the reliance on the Council Secretariat with Presidency efficiency are investigated. First, we should expect to see systematic differences in the leadership styles adopted by smaller and larger state Presidencies, with smaller member states adopting a more consensual style, whereas larger member states tend to adopt a more imposing style of leadership that does not match as well with the type of leadership demanded in the Council / European Council. Second, we should expect to see that smaller member states, due to their lack of informational resources, tend to be more dependent upon the Council Secretariat. As the Secretariat is a trusted actor with extensive bargaining skills that enables it to craft consensus, we should expect this reliance to result in an increase in the efficiency of the negotiations, other things equal.

Investigating the first hypothesis, do we see systematic differences in the style of leadership adopted by smaller and larger Presidencies in EU constitutional negotiations? While even the largest Presidency cannot dictate outcomes in IGCs as decision-making is by unanimity, there is a substantial difference between quiet, behind-the-scenes consensus-building tactics and more imposing tactics that exploit the material resources of the larger state and/or the formal prerogatives of the Presidency. Indicators of ‘consensual’ leadership tactics in constitutional negotiations include the slow progression towards consensus on draft texts by utilizing tactics such as: bracketing issues still under debate, enabling delegations to insert ‘reserves’ and points of contention into the single negotiating text, and slowly whittling down the points of disagreement through successive rounds of debate about different variants to solve key problems; and shuttle-diplomacy aimed at finding areas of agreement in order to broker key deals. In contrast, a more ‘imposing’ style of leadership

would see the Presidency putting forward major points in texts, proposals or even whole drafts without thorough discussion and/or approval by delegations that are then treated by the Presidency as *faits accomplis*. Further, we would expect to see brokerage with ‘muscles’, with the Presidency employing threats or promises of major payoffs in an attempt to bludgeon recalcitrant delegations towards agreement.

Table 1 depicts below an overall classification of strategies utilized by different Presidencies during the past five rounds of constitutional reform. The two Irish Presidencies in 1996 and 2004 provide a useful illustration of a ‘consensual’ Presidency leadership approach. In the wake of the disastrous Brussels Summit of December 2003 where the IGC negotiations broke down, the Irish chose a strategy of first quietly consulting with governments in order to determine whether the negotiations could be restarted. Thereafter the Irish Presidency worked on gradually narrowing the areas of disagreement by quietly shuttling back and forth between capitals, testing compromise proposals, and then tabling draft texts on sensitive issues that they believed had broad acceptance.²⁶ The result of this strategy was, together with fortuitous election results in Poland and Spain, that the Irish were able to find a consensual outcome that eluded the Italian Presidency, resulting in an efficient outcome where no significant gains were left on the table.

Ireland in the fall of 1996 adopted a similar consensual strategy, gradually nudging governments towards agreement and testing how far they would go *without* pushing them.²⁷ For instance, in meetings at the ambassadorial level, the Irish would sum up discussions on points, suggesting that one option had more support and therefore should be pursued.²⁸ When it came time to translate the debates into an actual draft treaty by the Dublin summit in December 1996, the Irish used a method of ‘successive approximations’ to narrow the bounds of disagreement throughout the fall in order to produce an ‘ambitious’ but acceptable draft, supplemented by a series of bilateral meetings in late November – although the draft did side-step the contentious issue of flexibility.²⁹ This draft set the tone for the rest of the negotiations, and formed the basis for the final agreement.

Smaller state Presidencies

²⁶ - Interview with senior Council Secretariat official, Brussels, January 28 2004, and Secretariat official, telephone interview, July 9 2004; Quaglia and Moxon-Browne 2006:352, 357; Crum 2007.

²⁷ - For an inside account, see McDonagh 1998. Also Svensson 2000.

²⁸ - This power of summarizing a debate can be excessively exploited, as many participants in the Convention believed Giscard d’Estaing did. One anonymous conventioneer, while being sarcastic, did sum up these views by stating, ‘...If others approve his ideas, it’s a significant consensus. When they don’t agree, it’s a consensus. When 40 successive members disapprove, the consensus is going in the right direction.’ (Agence Europe, No. 8376, Saturday 11 January 2003, p. 3.

²⁹ - McDonagh 1998; Svensson 2000. See CONF 2500/96.

Luxembourg 1985	<i>Consensual approach</i> ▪ used a very subdued and neutral approach; ³⁰
Luxembourg 1991	<i>Consensual approach</i> ▪ despite having an ambitious agenda for the Political Union IGC, a pragmatic strategy aimed at finding the median of national positions was adopted; ³¹
Netherlands 1991	<i>Imposing approach at start / switched to consensual approach</i> ▪ a ‘imposition’ strategy was adopted in the first months, resulting in the failed attempt to replace the existing draft with a much more ambitious single treaty option; ³² ▪ after ‘Black Monday’, a more consensual style aimed at brokering key deals that brought all delegations on board was adopted as responsibility for the Presidency shifted to the Dutch Prime Minister, assisted by the Dutch Permanent Representation; ³³
Ireland 1996	<i>Consensual approach</i> ▪ consensual style of ‘successive approximations’ adopted, whereby general positions were gradually translated into treaty text
Netherlands 1997	<i>Consensual approach</i> ▪ while the Dutch were ambitious on minor points, and skillfully managed the agenda in order to craft agreement on incorporation of Schengen and several other issues, the Dutch declined from adopting a more imposing style on the key issues of institutional reform that were the <i>raison d’être</i> of the IGC; ³⁴
Portugal 2000	<i>Consensual approach</i> ▪ attempted to expand the agenda to include flexible cooperation, but did not push negotiations on the key institutional issues on the agenda; ³⁵
Ireland 2004	<i>Consensual approach</i> ▪ subdued and pragmatic behind-the-scenes strategy of building consensus behind a broad compromise proposal on the key issues; ³⁶
<i>Larger state Presidencies</i>	
Italy 1996	<i>N/A – no leadership supplied from March 1996</i> ▪ political chaos due to collapse of Dini government resulted in lack of leadership by Italian Presidency;
France 2000	<i>Imposing approach</i> ▪ imposition style adopted in several key issues – in particular Council voting weights;
Italy 2003	<i>Consensual approach, but very little leadership supplied</i> ▪ relatively ambitious strategy adopted in first months aimed at preventing ‘real’ negotiations in the hope that this would prevent the Convention package from being re-opened; ▪ disorganized chairing of Brussels Summit in December resulted in IGC breakdown; ³⁷

Table 1 – Summary of Presidency leadership styles during IGC negotiations: 1985-2004.

³⁰ - Middlemas 1995:146.

³¹ - Beach 2005:67-69.

³² - Christoffersen 1992; Corbett 1998; Mazzucelli 2007.

³³ - Beach 2005:67-69.

³⁴ - Mazzucelli 2007; Beach 2007; McDonagh 1998.

³⁵ - Beach 2005.

³⁶ - Beach 2007; Crum 2007.

³⁷ - Ludlow 2004.

What happens in efficiency terms when a smaller member state attempts to utilize a more imposing leadership style when holding the Presidency? The only example of a small state Presidency that adopted an imposing approach in a major dossier was during the Dutch Presidency in the fall of 1991. The Dutch attempted to exploit the power of the chair in the negotiations of the Political Union IGC, but this attempt at imposing leadership ended counterproductively in a negotiation breakdown that has gone down in EU lore as ‘Black Monday’.³⁸ The Dutch had chosen to run their Presidency from the Dutch Foreign Ministry in the national capital, with little input from the Dutch Permanent Representation in Brussels.³⁹ Upset with the intergovernmental character of the draft treaty that had been agreed upon during the preceding Luxembourg Presidency as the basis of further negotiations, Dutch officials decided to exploit the agenda-management powers of the Presidency by secretly drafting a more supranational text. They originally intended to show the text to governments that were believed to be sympathetic to this position but once word got out that they were working on a radical draft, they postponed its introduction until the end of September, at which time they presented the full draft.⁴⁰ While several governments agreed with the substance of the more supranational Dutch draft treaty, all but the Belgians were upset that the Dutch had so openly attempted to impose its own preferences by jettisoning the Luxembourg draft that they had approved as the basis for further negotiations.⁴¹ The Dutch were then embarrassingly forced to revert back to the Luxembourg draft, and were crippled by a lack of trust amongst governments for the remainder of their Presidency, forcing them to draw extensively upon the services of the Council Secretariat.⁴²

As seen in table 1, in the case of the two Italian Presidencies the problem was not an imposing strategy but the more fundamental problem of a lack of supply of leadership. In 1996 the government fell just as the IGC negotiations were getting underway, whereas in 2003 the Berlusconi-led government was unable to supply the delicate brokering leadership required to reach a deal.

The French Presidency is a good example that larger member state Presidencies are not above the principle of consensual shared leadership. Given the consensual nature of Council negotiations, large member states cannot deploy their great power resources in a manner that allows them to

³⁸ - See Beach 2005; Mazzucelli 2007; Christoffersen 1992.

³⁹ - Interview with Dutch official, Brussels, May 7 2001; member of Council Secretariat, January 27 2004; former high-level Council Secretariat official, Telephone interview, January 29 2002.

⁴⁰ - Christoffersen 1992:37.

⁴¹ - Corbett 1998:310; Ross 1995:172; Christoffersen 1992.

⁴² - Beach 2005.

impose solutions upon other governments. The French Presidency in 2000 attempted to exploit their Presidency to push through a large state biased Treaty of Nice, while at the same time preserving the parity of voting weights with Germany, yet this imposition had detrimental effects upon the efficiency of the negotiations, resulting in an inefficient outcome (the Treaty of Nice).

One example of the counterproductivity of imposing strategies was when France openly advocated a shift in the institutional balance-of-power towards the larger states; most evident at the Biarritz informal summit where Chirac told the astonished heads of state from the smaller member states during the first dinner that they should just accept whatever deal was given to them.⁴³ The debate came to a head on the issue of Council voting weights, where a majority of countries supported a simple double majority system for Council voting similar to the one adopted in the draft Constitutional Treaty from the Convention in 2003. France, desperate to maintain Franco-German parity in voting weights, chose to keep this proposal off the agenda and instead tabled during the final Nice Summit a blatantly pro-large state proposal. This proposal suggested that all five big states would have 30 votes whereas the votes for the smaller states would be relatively unchanged, and further, in order to enable the big states to block legislation, a demographic safety net was to be introduced whereby if a member state asked for it, a proposal adopted by QMV should be supported by member states representing *at least* 62% of the EU population.

While supported by the other large member states, the French draft was soundly rejected by the majority of member states.⁴⁴ After the rejection the next day of a new French proposal that tweaked the number of votes for the Netherlands and Poland, a majority of governments asked the French to prepare a double majority proposal instead. The French instead persisted with their course, threatening to let the negotiations break-down instead of accepting the majority wish for a double majority proposal. However, despite these threats and the strongly partial chairing, while the French succeeded in keeping a double majority system off the table and in maintaining (at least partial) Franco-German parity,⁴⁵ they were unable to merely ‘impose’ their preferred outcome upon other governments. Instead, the negotiations ended in a messy horse-trade that ended close to the LCD, where the smaller states were both compensated with more votes and a clause that a proposal must be adopted by a ‘majority of members’, while the threshold for QMV was increased in a declaration in order to make it easier for Spain to form part of a blocking minority. In contrast,

⁴³ - *Agence Europe* No. 7821, 16.10.98, Galloway 2001:48.

⁴⁴ - The following is based upon two in-depth interviews with members of the UK negotiating team in the 2000 IGC, London, February 21 and 22 2002; the informed account given in the *Economist*, Vol. 357, issue 8201, p. 26, 28; archival evidence from the Swedish foreign ministerial archives; and Galloway 2001.

⁴⁵ - With the demographic condition for adopting legislation, Franco-German parity was broken.

given the majority in favour of a double majority system, it is probable that a simple and more efficient voting system could have been adopted in Nice; naturally with sufficient compensation for Spain. This would have eliminated one of the major hurdles in the negotiation of the Constitutional Treaty, where the Polish and Spanish defended the gains they had made in the Treaty of Nice – ‘gains’ that were arguably mostly due to inefficient French leadership in 2000. Finally, even if one maintains that the French were successful with their ‘imposing’ leadership style on Council voting weights, one can also argue that the limits of this type of strategy became painfully clear in the immediate aftermath of Nice, where calls erupted for a revision of the Nice compromise to be undertaken even before the ink had dried on the treaty.

Turning to an investigation of the second hypothesis on the utilization of the Council Secretariat, table 2 illustrates that smaller state Presidencies tend to draw extensively upon the Secretariat, whereas both the French in 2000 and Italians in 2003 chose instead to run a capital based Presidency with much less use of the Secretariat.⁴⁶ As the Council Secretariat is both an accepted actor, and has an experience with crafting compromises that do not end up being LCD outcomes, it is argued that by utilizing the Secretariat, the leadership supplied by the smaller state Presidency is more effective.

The Luxembourg Presidency in 1991 is a good example of the consequences of delegating functions to the Secretariat. As in 1985, the Luxembourg government was cognizant that it did not have the resources to lift the burden of the Presidency, but in contrast to the 1985 IGC where the nature of the issues made it more sensible to delegate functions to the Commission, they decided to utilize the Secretariat extensively, allowing the Secretariat to produce all of the questionnaires prior to IGC meetings, while also producing all of the draft texts.⁴⁷

Smaller state Presidencies

⁴⁶ - Italy in 1996 is an exception, but this was due to extraordinary political situation in the country during their term.

⁴⁷ - Ross 1995.

Luxembourg 1985	▪ informally delegated many functions to the Commission; ⁴⁸
Luxembourg 1991	▪ informally delegated many functions to the Council Secretariat; ⁴⁹
Netherlands 1991	▪ prior to ‘Black Monday’ relied solely upon Dutch officials; ⁵⁰ ▪ after ‘Black Monday’, responsibility for the Presidency shifted to the Dutch Prime Minister, assisted by the Dutch Permanent Representation and the Council Secretariat; ⁵¹
Ireland 1996	▪ drew extensively upon the Council Secretariat; ⁵²
Netherlands 1997	▪ utilized Council Secretariat in many issues, although in the issue of Schengen incorporation they believed the Secretariat had its own agenda, and therefore on Schengen-related issues the Dutch chose to draw upon assistance from Commission officials instead; ⁵³
Portugal 2000	▪ less use of Council Secretariat; ⁵⁴
Ireland 2004	▪ extensive use of Council Secretariat; ⁵⁵
<i>Larger state Presidencies</i>	
Italy 1996	▪ delegated many functions to the Council Secretariat due to the political situation in Italy;
France 2000	▪ did not utilize the Council Secretariat in most issues – some limited use in the issue of the extension of QMV;
Italy 2003	▪ marginal use of Council Secretariat during Presidency; ▪ Council Secretariat sidelined in run-up to Brussels Summit;

Table 2 – Summary of Presidency use of Council Secretariat during IGC negotiations: 1985-2004.

The best example of the result of delegating functions to the Secretariat in terms of efficiency was on the issue of the legal structure of the treaty.⁵⁶ The original idea of creating a treaty split into three pillars - two intergovernmental pillars together with the existing supranational EC pillar – had come from French representative Pierre de Boissieu.⁵⁷ Yet de Boissieu’s idea of three pillars was only a vague metaphor which had to be translated into a concrete legal reality – something that arguably only the Secretariat was able to do with its extensive knowledge of the structure of the treaties coupled with the acceptance among governments of its leadership.⁵⁸ While the production of a workable legal formula was a task that only the largest member states holding the Presidency or

⁴⁸ - Middlemas 1995:146; Moravcsik 1998:448; Beach 2005.

⁴⁹ - Beach 2005:67-69.

⁵⁰ - Christoffersen 1992; Corbett 1998; Mazzucelli 2007.

⁵¹ - Beach 2005:67-69.

⁵² - MdDonagh 1998.

⁵³ - Mazzucelli 2007; Beach 2007; McDonagh 1998.

⁵⁴ - Beach 2005.

⁵⁵ - Beach 2007; Crum 2007.

⁵⁶ - From Beach 2005:109.

⁵⁷ - Moravcsik 1998:449-450; Interview with senior Council Secretariat official, telephone interview, January 29 2002.

⁵⁸ - Interviews with high level Danish civil servant, telephone interview, January 29 2004; Council Secretariat official, Brussels, January 27 2004.

the Council Secretariat had the technical and legal expertise to undertake, a treaty framework originating from the Quai d'Orsay or the Foreign and Commonwealth Office would have been viewed with suspicion by more supranational-oriented governments. In contrast, given the Secretariat's reputation as a trusted assistant among governments, the legal formula that it eventually proposed was seen to be balanced and digestible; helped by the fact that the Secretariat informally consulted all twelve governments while it was drafting the formula; thereby ensuring that it was broadly acceptable by all *before* it was introduced to the IGC.⁵⁹ The pillar structure drafted by the Secretariat was then put into the first Luxembourg Draft Treaty that was presented to the IGC on 12 April 1991, and formed the basis for the final agreement in Maastricht. In terms of the efficiency of the negotiations, without a workable legal formula for a pillar framework that was acceptable to all governments that satisfied both intergovernmentalists and supranationalists, it is unlikely that a final agreement would have been reached on including either the CFSP or JHA into the treaties. In particular, the Secretariat ensured the intergovernmental nature of decision-making in the CFSP and JHA pillars, while also protecting the core of the Community from intergovernmental intrusions and by ensuring that the common provisions binding the three pillars into one Union were stronger than some delegations such as the French originally envisioned.

The fate of the Italian Presidency in the fall of 2003 is a good example of the oft-heard Brussels dictum that 'the Council Secretariat is ignored at the Presidency's peril'. While some use was made of the services of the Council Secretariat for drafting texts, the strong warnings from top officials in the Secretariat about the way that the Italians were handling the negotiations were ignored.⁶⁰ The Secretariat was particularly concerned about the lack of papers being advanced on the key institutional issues, which were not seriously discussed prior to the final Brussels Summit in December.⁶¹ The lack of adequately fertilizing the grounds for compromise became particularly acute when Berlusconi took over the handling of the Italian Presidency in the run-up to Brussels. Berlusconi did not use the Council Secretariat at all – with predictable results.⁶² According to participants, the legal advisor to the IGC, Head of the Secretariat's Legal Services Jean-Claude Piris, had a range of possible compromise solutions prepared for the Summit, but Berlusconi simply did not listen.⁶³

⁵⁹ - Christoffersen 1992:34-35.

⁶⁰ - Interview with senior Council Secretariat official, Brussels, January 29 2004.

⁶¹ - Interview with senior Council Secretariat official, Brussels, January 28, 2004.

⁶² - Interview with senior Council Secretariat official, Brussels, January 27, 2004, senior Council Secretariat official, Brussels, January 28, 2004.

⁶³ - Interview with senior Council Secretariat official, Brussels, January 28, 2004; NAT-16.

5. Conclusions

Concluding, the preceding analysis has provided initial evidence that supports the contention that smaller Presidencies are as effective leaders as bigger Presidencies, and arguably can even be more effective leaders due to the paradox of Presidency weakness. Evidence was shown that the ‘weakness’ of a smaller state Presidency can actually be a strength if weakness forces the Presidency to adopt a more consensual style of leadership that better fits the demand for consensual leadership in the Council / European Council, and if they choose to draw more upon the assistance and advice of the Council Secretariat.

First, it was found that there was no significant difference in the relative amount of legislation adopted in the Council adopted during smaller or larger Presidencies. In contrast, it was found that ‘levels of contention’ as measured by the number of no votes and abstentions was greater during larger Presidencies than smaller, although there were also notable outliers. Turning to a more qualitative analysis, it was shown in a comparative case analysis of Presidency behavior during EU intergovernmental negotiations that smaller state Presidencies tended to both adopt more consensual leadership styles and rely more on the assistance and advice of the Council Secretariat. As a result, they tended to be more successful at supplying effective leadership than larger member states, as the consensual style is closer to the consensual norms that pervade Council negotiations.

These findings do not mean that smaller member states are necessarily more impartial than larger member states, but that the combination of a lack of great power resources and strong procedural powers of the Presidency mean that smaller Presidencies (usually) feel more constrained in imposing their own views upon other delegations and therefore adopt more consensual styles of leadership that better match the type of leadership demanded in the Council / European Council.

One counter argument at this stage would be that what this paper has focused upon is the ‘nitty-gritty’ leadership of drafting papers, managing the agenda, etc..., and that this is far removed from the big decisions in the EU, be they major legislative packages or constitutional reforms. Here the argument would be that in these ‘history-making’ negotiations, strong political leadership is often demanded. Supporting this argument would be an interpretation of the vital role that Franco-German leadership has playing in pushing integration forward – and a role that a strong President of the Union perhaps could play in the future if this argument is correct.

However, it is my contention, and I believe that evidence supports this view, that integration is primarily demand-driven, and that no amount of great power / hegemonic leadership can force agreement when no will for agreement exists. In my view, what made the Franco-German tandem so successful until the mid-1990s was the fact that Franco-German compromise neatly bridged the key cleavages in the issues being debated – usually on the supranational-intergovernmental divide. A compromise that bridged the key cleavages was then acceptable to other parties, be they Denmark or Belgium. This demand-driven view can also explain why Franco-German ‘leadership’ has not been effective in the past decade, as they are now on one side of the big-small divide, and therefore cannot supply a cleavage-bridging compromise as they could in the past.

As regards the debate on strengthening the Presidency, it first is evident that there is no great need to strengthen the Presidency. Smaller member states are able to provide effective leadership in both legislative politics and even in the history-making negotiations of the Union. Strengthening the Presidency can paradoxically have the opposite effect if it either reduces the need for Presidencies to adopt consensual leadership approaches and/or lowers their reliance upon the Council Secretariat.

The findings also suggest that the current attempts to strengthen the Presidency, be it in the form of a fixed Presidency or stronger procedural powers, are not driven by ‘rational’, institutional design concerns, but are part of a greater large member state agenda to shift the institutional balance of power in a pro-large member state direction.

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Appendix 1 – Breakdown of the number of acts adopted by Presidency.

Presidency	B87	DK87	GE88	GR88	SP89	F89	IRL90	I90	LX91	NL91	PR92
# Adopted	184	337	188	325	236	268	232	277	240	223	282
# on table	405	517	451	560	446	451	469	520	466	469	495
Percentage	45%	65%	42%	58%	53%	59%	50%	53%	52%	48%	57%

Presidency	UK92	DK93	B93	GR94	GE94	F95	SP95	I96	IRL96	NL97	LX97
# Adopted	246	209	236	151	263	163	195	155	209	153	193
# on table	463	410	450	382	467	389	454	428	441	402	420
Percentage	53%	51%	52%	40%	56%	42%	43%	36%	47%	38%	46%

Presidency	UK98	AU98	GE99	FIN99	PR00	F00	SW01	B01	SP02	DK02	
# Adopted	172	203	157	140	114	127	135	111	116	129	
# on table	429	400	314	287	263	295	251	236	196	144	
Percentage	40%	51%	50%	49%	43%	43%	54%	47%	59%	90%	

Source: Compiled from data from König, Luetgert and Dannwolf (2006).