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# In View of Ratification: Governmental Preferences and Domestic Constraints at the Amsterdam Intergovernmental Conference

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On 30 March 1999, the French government submitted its ratification papers for the Amsterdam Treaty to the Italian government and thus allowed the new treaty of the European Union (EU) to come into force on 1 May 1999. This completed a ratification process that hardly stirred the public's attention in the member states, especially as compared to the involuntary defections in the ratification process of the Maastricht Treaty.<sup>1</sup> Governments were extremely cautious with the Amsterdam Treaty, seeking above all "not to provoke domestic debates."<sup>2</sup> The most noteworthy modifications adopted in the new treaty concern the areas of institutional change, justice and home affairs, a common foreign and security policy, fundamental rights, employment, the environment, and subsidiarity.<sup>3</sup> The smooth ratification process is probably not unrelated to the considerably less ambitious nature of the Amsterdam Treaty. Moravcsik and Nicolaidis argue that governments widely circulated the draft proposals for the Intergovernmental Conference (IGC) to "... minimize the possibility of subsequent ratification failures."<sup>4</sup>

This view is widely shared by observers and scholars alike. If it is correct, the Amsterdam Treaty provides a powerful illustration of the influence ratification

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1. König and Hug 2000.
2. Moravcsik and Nicolaidis 1998, 13.
3. Langrish 1998, 3.
4. Moravcsik and Nicolaidis 1999, 70.

constraints may have on the bargaining process of international treaties.<sup>5</sup> The approach chosen by the national governments in negotiating the Amsterdam Treaty suggests that they worried about ratification constraints, an observation that provides strong support for the two-level character of the bargaining process for the Amsterdam Treaty. However, it is an ambitious empirical concern to show how the negotiators at the IGC considered not only their own policy preferences, but also those of the relevant domestic ratification actors.

While the powerful metaphor of “two-level games” proposed by Robert Putnam, (which draws on pioneering work by Thomas Schelling, and the subsequent body of theoretical contributions) is largely acknowledged in the literature, empirical work on two-level games still lags behind.<sup>6</sup> The “anything is possible” conclusion of Thomas Hammond and Brandon Prins reminds us that the theoretically-derived hypotheses from sophisticated formal two-level game analyses are highly contingent: depending on the empirical cases explored, one may find positive or negative effects of domestic ratification constraints.<sup>7</sup> In the study of EU treaties, empirical work is not yet systematic in covering all relevant ratifying actors and carefully deriving their preferences.<sup>8</sup> Similarly, the precise institutions employed in the ratification process have received only scant attention.<sup>9</sup> These institutions, however, together with the preferences of the relevant negotiating actors, determine the

5. Moravcsik and Nicolaidis (1998, 19) quote a top Commission negotiator who remarked afterwards that “the outlines of the likely agreement were so clear to the participants that at some future date it could be negotiated in 24 hours; the problem being simply to select the optimal domestic political moment to do so.”

6. See Putnam 1998; and Schelling 1960. Recent theoretical research concludes that, in general, informational asymmetries given advantage to the actor with a domestic ratification constraint only partly known by the other actors (Mayer 1992, Iida 1993, Mo 1994 and 1995, Schneider and Cederman 1994, Milner and Rosendorff 1996, Fearon 1997). Almost systematically, these formal models assume a given preference profile and derive their results for the chosen setup. Hammond and Prins’ 1999 systematic exploration of all possible preference profiles in a simple, complete information two-level game suggests, however, that some conclusions drawn from specific preference profiles might not be generalizable. Another characteristic of the current theoretical literature on two-level games is their focus on one-dimensional bargaining spaces. Forays into two-level games with multidimensional bargaining spaces have been rare, and have either been carried out under very restrictive assumptions on preference profiles (for example, Milner and Rosendorff 1997; Mansfield, Milner, and Rosendorff 2000) or for only a limited set of different preference profiles; see for example, Hammond and Prins 1999. The most solid result from these explorations is that the ratified multidimensional treaty will belong to the Pareto set defined by the preferences of the negotiators and the ratifying agents. Which point in the Pareto set will be chosen depends even more strongly on the bargaining protocol assumed. Tangential to our research question is work related to the setting up of domestic institutions, which ties the hands of government before the negotiations. Pahre’s 1997 incisive analysis of this tendency in EU member states is updated by Martin 2000, chap. 6.

7. Hammond and Prins 1999, 5. This may also explain to some degree why the case studies presented in Evans, Jacobson, and Putnam 1993 hardly find any general empirical support for the simple two-level game hypothesis discussed in Putnam 1988.

8. See, for example, Milner 1997 and Moravcsik 1998.

9. Caporaso 1999 clearly states this in his review of Moravcsik’s 1998 book covering the five big bargains from Messina to Maastricht, when arguing that domestic institutions are completely absent in this author’s argument.

domestic ratification constraints that are considered to matter for bargaining outcomes in the two-level games literature.<sup>10</sup>

We focus our analysis on these domestic institutions. First, we demonstrate that combining them with the preferences of all ratifying actors is necessary to understand the ratification processes of treaties in general and of the Amsterdam Treaty in particular. Second, in addition to this comparative study of the fifteen ratifying states, we provide evidence that their domestic constraints influenced the negotiations at the IGC level. We show that taking into account these domestic ratification constraints better explains the final Amsterdam Treaty. More precisely, our theoretical model, which is tailored to the empirical case, reveals the influence of domestic constraints regarding a change of the initial issue space by subtracting issues from the draft proposal. The Amsterdam IGC was prepared in a series of preparatory meetings leading to a draft of a so-called maximalist issue package, and member states eliminated about half of the issues of this draft proposal to find a consensus.

We also examine whether this consensus can be explained by the prominent Schelling conjecture of the “strength of weakness.” We ask whether the subtraction of issues occurred in those areas where a considerable number of domestic ratifying pivots preferred the status quo. Our conclusions rely on a detailed analysis of preferences of Amsterdam IGC negotiators, the domestic ratification institutions, and the preferences of the ratifying actors in all fifteen member states. Only by taking into consideration all this information can an accurate examination of the insights from the two-level games literature be carried out.

We examine the importance of domestic ratification constraints in the following way. First, based on our assessment of the two-level games literature and the empirical specificities of the Amsterdam Treaty, we propose a very simple model of treaty negotiations. Given the particular type of the maximalist issue space occurring in the Amsterdam IGC, some precise hypotheses can be derived. We next briefly present the ratification procedures and empirically derive the preferences of the ratifying actors in the fifteen member states. We then present the preferences of the negotiating governments, which we use to determine the gains and losses the negotiators incurred at the Amsterdam IGC. This then allows us to examine our hypotheses and to demonstrate that taking into consideration the domestic ratifying pivots can lead to more accurate predictions of the bargaining outcome in Amsterdam.

## A Two-Level Game of the Amsterdam Treaty

Negotiations at an IGC take place among multiple actors (in this case, fifteen member states) and across multiple issues. Most two-level game analyses of

10. Admittedly, Milner 1997, chap. 8 analyzes the ratification procedures for the Maastricht Treaty in the countries she discusses. Nevertheless, her discussion of the preferences of political parties and interest groups fails to establish the crucial link to the exact ratification procedures. Especially given her decision to reduce the Maastricht treaty to its Economic and Monetary Union-dimension, it is surprising that she hardly discusses the identity of the pivotal parties in the parliamentary ratification processes.

international negotiations restrict their analyses to two negotiators and often also to one issue dimension. As Hammond and Prins' analyses<sup>11</sup> show, restricting the attention to two negotiators does not reduce the empirical relevance of such analyses because the negotiators can be taken as the pivots for the Pareto set in a one-dimensional bargaining space. As soon as more than one issue is being bargained over, however, this simplification is no longer admissible.<sup>12</sup> Given the highly contingent insights of two-level games and their almost general restriction to a one-dimensional bargaining space, we propose a simple theoretical model tailored to the empirical case we wish to study. Compared to existing two-level games this model is somewhat more restrictive, but it offers a broader view of the impact of domestic constraints by linking the two-level game to the international negotiation literature. When considering the negotiations among the actors of the Amsterdam IGC, existing bargaining models hardly yield unique predictions.<sup>13</sup> Similar to Hammond and Prins,<sup>14</sup> we thus employ the weakest condition that we can reasonably impose on the analysis of the negotiations at the Amsterdam IGC; namely, that the outcome lies in the Pareto set. For our analysis, our primary assumption, which is largely empirically grounded, is that each issue on the table in Amsterdam could only be resolved by either adopting an integrationist solution or by not addressing it at all (that is, leaving the solution at its status quo).<sup>15</sup> Since issues were either solved by adopting an integrationist solution or no solution at all, the negotiators focused on which issues to include in the Amsterdam Treaty (with an integrationist solution) and which ones to leave out (leaving them at their status quo).<sup>16</sup>

Figure 1 illustrates our approach to two issues, X and Y. Due to our empirically-grounded assumption of binary choices, the possible ideal-points of a negotiating government (G, G', G'', G''') correspond to the four corners of the simplex defined by all possible outcomes.<sup>17</sup> For our analysis of the government's support, we first compare the distance between the government's ideal-point and the status quo (SQ) to the distance between the government's ideal-point and the proposed treaty (AM in Figure 1).<sup>18</sup> Since the outcome of the negotiations must fall into the Pareto set, the final treaty must be closer to each government's ideal-point than to SQ. If the

11. Hammond and Prins 1999.

12. The two-level game of Mansfield, Milner and Rosendorff 2000, for instance, which restricts the preferences of the actors in a two-dimensional bargaining space, cannot be easily extended to cover negotiations involving more than two parties.

13. The generalized Nash solution might be employed, but its relevance is quite questionable.

14. Hammond and Prins 1999.

15. Moravcsik and Nicolaidis 1998, 19 argue that governments were concerned above all with avoiding the impression of symbolic failure, and committed to avoiding any domestic ratification controversy that might threaten the transition to the monetary union.

16. These assumptions are very similar to the starting point adopted by Keeney and Raiffa 1991 in their analysis of "multiple-issue negotiations."

17. Strictly speaking, governments may also prefer points between the corners of the simplex, but including this possibility here would needlessly complicate the presentation. The same also holds to some degree for the location of draft treaties.

18. A further implicit assumption in Figure 1 is that all issues are equally salient for all actors and are separable. We must adopt this assumption because we have no empirical information on the salience of

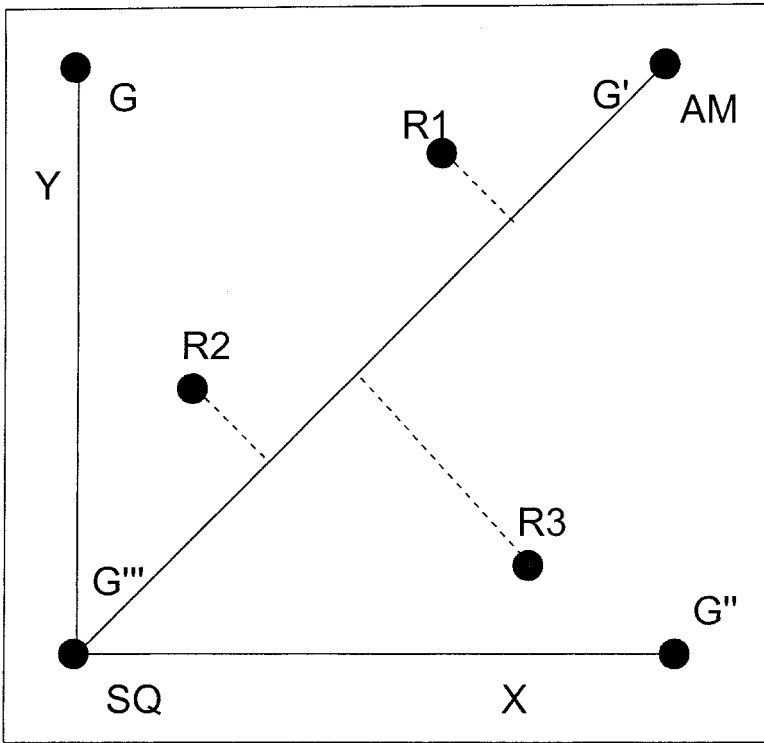


FIGURE 1. *Negotiators' preferences and domestic ratification*

distance to SQ is larger than to AM, the government would accept the particular proposal AM. If this is not the case, then negotiating governments can either iteratively add issues to the proposal, which allows for Pareto-improvements over SQ, or, beginning from a maximalist proposal (that is, integrationist solutions for all issues), they can drop issues up to a point where a draft treaty is an improvement for all negotiators, and for which domestic ratification is assured. This generates the question of whether the issue space will be changed and, if so, how.

We assume that the negotiators' knowledge about the preferences of the domestic ratifying agents is coarser<sup>19</sup> but equally distributed among all of them. More precisely, we assume that the governmental negotiators only have a broad assessment of whether or not a series of possible treaties would be ratifiable domestically. Thus the ratifying actors (R1, R2, and R3 in Figure 1) know their ideal-points in the

the various issues to each actor; similarly, we have no information on possible non-separable issues for some actors.

19. Iida 1996, 296.

multidimensional policy space, but the negotiators only care about the projection point of the ratifying pivot's ideal-point on the line linking a proposed treaty with SQ. This projection, by definition, always falls between SQ and the proposed treaty AM.<sup>20</sup> For example, if two out of the three ratifying actors must support the final treaty, the configuration of Figure 1 suggests that ratifying the treaty AM would not be possible since the projection of the pivotal ratifying actor (R3) is closer to SQ than to AM. To assure ratification, the negotiation process has to eliminate at least one of the two issues making up the proposed treaty.

The different possible ideal-points for the negotiating government in Figure 1 imply various outcomes for this negotiation process. The simplest case is if the government in question has an ideal-point at G". Compared to the proposed treaty AM, it would prefer to exclude issue Y in the final treaty, which would then result in an outcome corresponding to its ideal-point (G"). In this endeavor, it can count on the ratification process, since dropping issue Y changes the ratifying pivot from R3 to R1, and R1 prefers G" to SQ. Removing issue X from the proposal would not only make the government with the ideal-point G" worse off, but would also provoke a ratification failure. In such a situation the government preferring G" is likely to force its way into the negotiations, since ensuring domestic ratification simultaneously also leads to a treaty that it prefers. The situation for a government with ideal-point G' is quite different. To ensure ratification, at least one issue must be dropped from the treaty, which will make this government worse off compared to obtaining AM as an outcome. Next, a government with ideal-point G is indifferent between AM and SQ; given that ratification requires dropping at least one issue, it would prefer dropping both. Thus despite a domestic ratification constraint, G will not be able to improve the outcome from its perspective. Finally, a government with ideal-point G'" obviously could again count on the domestic ratification constraint to negotiate away at least issue Y, if not both issues.

This general logic extends easily to bargaining spaces with more than two issues. It presumes, however, that the negotiators start off with a well-prepared draft treaty, which is only changed by removing particular issues.<sup>21</sup> The process of removing issues is obviously influenced by the negotiating government's preferences, in the sense that it must lead to a proposal that is preferred by all negotiators to SQ. As our

20. This implies that Hammond and Prins' 1999 conclusion that everything is possible no longer applies.

21. The Amsterdam IGC was prepared by a series of meetings leading to a so-called "maximalist" conference package, followed, possibly, by the subtraction of issues. This preparatory procedure is typical for IGCs, but member states were extremely cautious in preparing the Amsterdam IGC because of their ratification problems with the preceding Maastricht Treaty, König and Hug 2000. Langrish 1998, 3 reports that a number of draft texts were produced in a series of preparatory meetings, leading to a general outline for a draft revision of the treaties at the Amsterdam IGC. The model could, however, also be reformulated for the case where the starting point is SQ and where issues are added on. Tollison and Willett 1979, 430 show how adding issues allows for successful package deals, and Sebenius 1983, 1984 provides empirical insights into the use of consensus strategies consisting of adding and subtracting issues in international negotiations. Given our empirical material, we focus on a "maximalist" treaty as the starting point of the negotiations.

discussion of Figure 1 demonstrates, the domestic ratification processes also influence issue removal. We assume that this influence transpires separately in each of the various issue areas discussed at the IGC. This implies that package deals are only possible inside a particular issue area, such as for issues of citizenship, justice, and home affairs. These issue areas are bargained over separately according to the logic previously discussed. The literature, which shows that log-rolling across issue areas hardly occurs at IGCs,<sup>22</sup> supports this additional assumption. On this basis we derive the following two hypotheses:

Hypothesis 1: The more ratifying actors prefer the maintenance of SQ in an issue area, the more likely is the subtraction of issues.

Hypothesis 2: If both government and domestic ratifying pivot of a country prefer SQ in an issue area, this country is more likely to obtain negotiating gains by changes in the draft treaty.<sup>23</sup>

These hypotheses directly follow from our simple two-level game. Provided that we have adequate measures for the actors' preferences and can identify the issues belonging to the certain issue areas, we can test our hypotheses by looking at variation across issue areas in the rate with which issues were dropped from the draft treaty and in the rate of gains states achieved.

## Ratification Constraints in Fifteen Member States

Existing empirical studies of ratification processes have been limited in several respects. Some scholars only employ the two-level metaphor to emphasize the importance of domestic actors, while others either rely on institutional hurdles<sup>24</sup> or measurements of a selective sample of ratifying actors.<sup>25</sup> To carry out a two-level analysis of the Amsterdam IGC negotiations, however, we determined the precise ratification constraints in all fifteen member states. These are determined by the interplay of institutional requirements necessary to ratify an international treaty and actors' preferences. We first present the institutions relevant for the ratification process, and then introduce the empirical strategy we employ to measure the preferences of the ratifying actors. Putting together these elements allows us to proceed to test our theoretically-derived hypotheses.

Almost all constitutions of the EU member states contain specific articles on international treaty ratification. Most of these articles specify that the parliament must be directly involved in the ratification process. As the roller-coaster-like ratification process of the Maastricht Treaty illustrated, however, ratification con-

22. See, for example, Moravcsik 1998.

23. If only the government or only the domestic ratifying pivot prefers SQ to the draft treaty, the negotiating gains will be smaller.

24. Milner 1997.

25. Moravcsik 1998.

straints may change after the adoption of a draft treaty.<sup>26</sup> While such changes in ratification hurdles were widely discussed in the media when the governments struggled with the Maastricht Treaty, this was not the case with the draft treaty of Amsterdam. Nevertheless, important changes occurred, even in this much smoother ratification process. Table 1 summarizes the ratification process and outcome for each member state (for more detailed information on the ratification process in each member state, see appendix).

Similar to the ratification process of the Maastricht Treaty, several constitutional changes were necessary for the ratification of the Amsterdam Treaty (Table 1). According to their respective requirements, Austria, Finland, France, and Ireland adopted constitutional amendments permitting the subsequent ratification of the Amsterdam Treaty. Two countries—Ireland and Denmark—held referendums, either because a constitutional amendment had to be adopted (Ireland) or because parliament failed to adopt the Amsterdam Treaty by the required qualified majority (Denmark). The parliaments in Finland, Germany, Greece, Luxembourg, and Sweden had to adopt the treaty by qualified majorities, while in all remaining parliaments simple majorities sufficed either in one or both chambers of parliament.

In addition to information about the domestic institutions, we also determined preference measures for the domestic ratifying actors. Ideally these measures should cover all the issues discussed at the IGC and be available for all actors intervening in the ratification process. However, since we limit our analyses to the parliamentary stage, we only have to determine the preferences of the pivotal actors at that stage. To determine the preferences of these pivots, we identified the preferences of all members of parliament (MPs) in each country. To some degree we can simplify our analysis by assuming voting discipline in ratification votes in parliament. From this we identify each pivotal actor and its corresponding preferences.

We use *Eurobarometer* data to infer the issue positions of the political parties in each national parliament.<sup>27</sup> For this purpose, we use individual responses to a series of questions related to the issue areas discussed in Amsterdam. We aggregate these positions to the level of the political party by calculating the mean positions of the sympathizers of a particular party. Obviously, the *Eurobarometer* data do not allow us to have preference measures for each issue on the table at the Amsterdam IGC. By regrouping the issues into seven broad categories, we nevertheless find a series of questions in the *Eurobarometer* 47<sup>28</sup> that relate to six broader issue areas of the IGC bargains (Table 2).<sup>29</sup> Given that the responses to these questions were binary,

26. See Milner 1997; and König and Hug 2000.

27. In an earlier version of this paper, we also used data on national MPs. See Wessels, Kielhorn, and Thomassen 1996. Unfortunately, this data set fails to cover all fifteen member countries, and inferring the party's positions based on the responses of MEPs proved haphazard. In addition, Gabel and Huber 2000 show that inferring the parties' positions based on sympathizers is not too problematic.

28. The exact wording of questions for the variables employed in this study is given in Hug 2001.

29. Below, when discussing in more detail the negotiations at the Amsterdam IGC, we provide evidence that roughly eighty issues were on the table, which fall into the seven categories appearing in Table 2.



TABLE 1. *Procedures and dates of ratification of the Treaty of Amsterdam*

<i>Member states</i>	<i>Procedure</i>	<i>Date of parliamentary adoption</i>	<i>Deposit of instrument</i>	<i>Date of last elections before ratification</i>
Austria	Parliamentary, two-thirds majority	Special constitutional law, amended Constitution and Treaty adopted on 9 July 1998	21 July 1998	Nationalrat: 17 December 1995; Bundesrat: division January 1995
Belgium	Parliamentary (Federal, communities, and regions), simple majorities	Adopted by Senate (4 June), Chamber (17 June), Communauté française (13 July), Région Wallone (15 July), Communauté germanophone (30 November 1998), Flemish Region (15 December), and Brussels Region (4 February 1999)	19 February 1999	21 May 1995
Denmark	Parliamentary, five-sixths majority, then referendum	Adopted by Parliament on 7 May 1998; Referendum approved, 28 May 1998 (55.1–44.9%)	24 June 1998	11 March 1998
Finland	Parliamentary, two-thirds majority	Treaty adopted by the Parliament on 15 June 1998	15 July 1998	Eduskunta: 19 March 1995
France	Parliamentary, three-fifths majority in joint session	Revision of Constitution, 18 January 1999; Treaty adopted by the Assembly, 4 March and the Senate, 16 March 1999	30 March 1999	Assemblée Nationale: 25 May and 1 June 1997
Germany	Parliamentary, two-thirds majorities in both chambers	Adopted by the Bundestag on 5 March and by the Bundesrat on 27 March 1998	7 May 1998	Bundestag: 16 October 1994
Greece	Parliamentary, three-fifths majority	Adopted by the Parliament, 17 February 1999	23 March 1999	22 September 1996
Ireland	Parliamentary, simple majorities in both chambers, referendum	Referendum approved 22 May 1998 (61.27%); Treaty adopted by Seanad, 18 June, Daíl, 25 June 1998	30 July 1998	Daíl Eireann: 6 June 1997; Seanad Eireann: 6 August 1997
Italy	Parliamentary, simple majorities in both chambers	Chamber of Deputies adopted the bill on 25 March, followed by the Senate on 3 June 1998	24 July 1998	Both chambers: 21 April 1996
Luxembourg	Parliamentary, two-thirds majority	Adoption by the Parliament, 9 July 1998	4 September 1998	12 June 1994
Netherlands	Parliamentary, simple majorities in both chambers	Tweede Kamer adopted Treaty, 5 November; Eerste Kamer adopted on 22 December 1998	31 December 1998	Tweede Kamer: 6 May 1998; Eerste Kamer: 29 May 1995 (Provincial elections)
Portugal	Parliamentary, simple majority	Adopted by the Parliament on 6 January 1999	19 March 1999	1 October 1995
Spain	Parliamentary, simple majorities in both chambers	Adopted by the Chamber of Deputies, 8 October and by Senate, 24 November 1998	5 January 1999	3 March 1996
Sweden	Parliamentary, three-fourths majority	Adopted by the Parliament on 29 April 1998	15 May 1998	Riksdag: 21 September 1998
United Kingdom	Parliamentary, simple majority	Adopted by the House of Commons on 19 January and the House of Lords on 11 June 1998	15 June 1998	House of Commons: 1 May 1997

*Sources:* Adapted from European Union 1999 and sources mentioned in text.

TABLE 2. *Issue areas and preference measures*

<i>Issue area</i>	<i>Questions in Eurobarometer 47 (March–April 1997)</i>
I: Citizenship	Right to vote for foreigners (q22.7) Right to be candidate (q22.8)
II: Interior	EU responsible for matters not dealt with at national, regional, or local level (q22.4)
III: Employment	Workers' rights (q23g) Unemployment (q23i)
IV: Environment	Protection of environment (q23b)
V: Type of integration	
VI: New policies	Agriculture and fishing policies (q23j)
VII: Foreign/security	Common foreign policy (q22.2) Defense policy (q22.3)

either in favor (1) or against (0) a given policy, the mean position of a party group corresponds to the proportion of sympathizers of this party being in favor of a given policy. Given our assumptions about the information the governments had about the ratifying actors, we consider these values to correspond to the projections on the line linking the status quo (SQ) with the proposed draft treaty in Figure 1.

In Table 3 we combine our information on ratification institutions with the preference measures derived from the *Eurobarometer* data. This allows us to identify the pivotal actor in the domestic ratification process and its policy preference for each issue area for which we have preference measures. First, we determined for all parliamentary actors their preferences in all issue areas. Then, based on their preferences and the size of their parliamentary representation, we calculated which parties were pivotal for changes from the status quo in the lower house and possibly the upper house.<sup>30</sup> The overall pivot and its preferences then characterize the domestic ratification constraint.

A simple example further illustrates this procedure. In the Netherlands, simple majorities in both chambers were necessary to ratify the Amsterdam Treaty. We arrayed all parties according to their preferences in an issue area. Given simple majority rule, the party of the median MP in the lower house is the lower house pivot, while the party of the median MP in the upper house is the upper house pivot. Since all these preferences are normalized to a scale from 0 to 1, with 1 indicating the most “pro-integration” position, values below 0.5 suggest that the pivotal actor prefers no integration in a particular issue area. Since in the Netherlands the accord of both houses was required, the pivot with the lower value (for example, a

30. To determine the pivotal actor, we used the information on the ratification procedure appearing in Table 1. See Hug 2001 for a description by issue area and country of the pivot in the lower house, and, if applicable, the pivot in the upper house and the overall pivot.

TABLE 3. Preferences of ratifying pivots at the domestic level

	I: Right to vote	I: Candidate	II: Subsidiarity	III: Workers' rights	III: Fight unemployment	IV: Environment	VI: Agriculture	VII: Foreign policy	VII: Defense policy
B	CVP 0.44	CVP 0.29	PSC 0.83	ECOLO 0.67	CVP 0.74	CVP 0.73	ECOLO 0.69	CVP 0.76	CVP 0.77
DK	SD 0.32	SD 0.28	RV 0.67	SD 0.20	SD 0.39	SD 0.54	SD 0.55	SFP 0.46	RV 0.37
D	CDU/CSU 0.56	CDU/CSU 0.51	CDU/CSU 0.78	CDU/CSU 0.39	CDU/CSU 0.52	CDU/CSU 0.74	CDU/CSU 0.65	CDU/CSU 0.80	CDU/CSU 0.86
GR	PASOK 0.51	PASOK 0.38	PASOK 0.84	PASOK 0.84	ND 0.52	ND 0.64	PASOK 0.43	PASOK 0.83	PASOK 0.82
I	PDS 0.75	RC 0.69	PDS 0.89	PDS 0.48	PDS 0.74	PDS 0.76	PDS 0.53	PDS 0.90	PDS 0.90
E	P.P. 0.82	P.S.O.E. 0.74	P.P. 0.86	P.P. 0.47	P.P. 0.54	P.P. 0.67	P.P. 0.47	P.P. 0.86	P.P. 0.87
F	RPR 0.49	RPR 0.33	RPR 0.54	RPR 0.40	UDF 0.54	PS 0.70	RPR 0.55	UDF 0.70	UPF 0.74
IRL	PD 0.75	FF 0.69	FF 0.84	FF 0.54	FF 0.53	FF 0.52	FF 0.41	FF 0.77	FF 0.68
UK	LAB 0.50	LAB 0.43	LAB 0.66	LAB 0.45	LAB 0.34	LAB 0.50	LAB 0.40	LAB 0.58	LAB 0.71
L	CSV 0.51	CSV 0.37	G 0.75	CSV 0.36	CSV 0.52	LSAP 0.63	G 0.51	DP 0.84	ADR 0.81
NL	CDA 0.55	CDA 0.45	VVD 0.66	CDA 0.49	PVDA 0.55	VVD 0.86	CDA 0.75	VVD 0.86	CDA 0.88
P	PS 0.65	PS 0.57	PCP/CDU 0.77	PS 0.49	PS 0.54	PS 0.52	PS 0.50	PS 0.76	PS 0.77
SF	SDP 0.50	SDP 0.46	KESK 0.71	SDP 0.16	KOK 0.38	RKF 0.42	KESK 0.09	VAS 0.44	VAS 0.26
S	M 0.53	M 0.43	SD 0.62	SD 0.22	SD 0.50	SD 0.53	SD 0.47	SD 0.51	SD 0.56
A	OeVP 0.39	SPOe 0.33	OeVP 0.67	SPOe 0.29	SPOe 0.49	OeVP 0.49	SPOe 0.45	SPOe 0.69	SPOe 0.69

preference closer to SQ) is the overall parliamentary pivot. If the preference value for this pivot is less than 0.5, this indicates that a particular government faced a domestic ratification constraint in the particular issue area.

## **Governmental Preferences and the Amsterdam Treaty Negotiations**

We now apply this information about the domestic ratification constraints to our hypotheses on the Amsterdam IGC outcome. However, we still require information on the preferences of the negotiating governments on the Amsterdam draft proposal, which comprised a large set of issues. This draft proposal was negotiated by member state delegations at the Amsterdam IGC in June 1997, which was formally launched at the Turin European Council in March 1996. Before that, a Reflection Group of member state representatives prepared the topics to be covered by the Amsterdam agenda, reporting to the Madrid European Council in December 1995. A regular working group of foreign ministers' special delegates was then established, reporting to monthly meetings of the foreign ministers. All these preparations produced a number of draft texts, initially as individual drafts and then as a General Outline for a Draft Revision of the Treaties produced for the Dublin European Council in December 1996 under the Irish Presidency. In our view, these preparations led to a large draft proposal of issues to be negotiated at the Amsterdam IGC, which was then dwindled down to a consensus set.<sup>31</sup>

Concerning policy development, the draft proposal included many issues on citizenship. The extension of judicial control over respect for fundamental rights has been accompanied by the introduction of a mechanism for political control, by which the European Council may accuse a member state of having breached the principles of liberty, democracy, human rights, and fundamental freedoms. Furthermore, the Council must take appropriate action to fight discrimination based on sex, race, religion, or ethnic origin. The new provisions on fundamental rights are thus a cautious strengthening of former protections. Besides citizenship, the treaty also intensified activities in the field of justice and home affairs. Provisions on visas, asylum, and immigration were brought within the legal order, while provisions on policy and criminal judicial cooperation remained in a truncated third pillar. These

31. At the Madrid Council in 1995, the European Council had effectively eliminated enlargement and the post-1999 budget arrangements from the agenda of the Amsterdam IGC. See Avery and Cameron 1998, 102. Unlinking these issues led to the Commission's Agenda 2000 covering policies on the proper functioning and further enlargement on a separate agenda, published a few weeks after the end of the Amsterdam IGC. At the Amsterdam European Council of 16 and 17 June 1997, member states only agreed on the substantive provisions that would make up the new treaty. The final form of the new treaty was not adopted through the new provisions at that time, but they were grouped into themed chapters at Amsterdam and underwent so-called "legal edition" over the summer, Langrish 1998, 3–4. These themed chapters were finally sent out as a sequence of amendments and signed at Amsterdam on 2 October 1997. This text consists of three parts: amendments to the old treaty, deletions of its obsolete provisions, and final provisions including a renumbering of the articles.

rearrangements of provisions on justice and home affairs were a major development. Another important step was taken by a task promoting coordination between the employment policies of the member states with a view to enhancing their effectiveness. The Council may decide by qualified majority on guidelines that the member states shall take into account in their employment strategies. It may also adopt incentive measures, not to harmonize, but to facilitate cooperation in this area.

Greater emphasis was also placed on the integration of environmental protection policies. A reference to promoting sustainable development was added. Member states may introduce new domestic provisions, but the Commission may reject such measures based on arguments linked to the internal market harmonization. New policies concerned energy, tourism, sports, and consumer protection, while the area of a coherent foreign policy and security policy remained largely unchanged. Defense was the most controversial topic of the Amsterdam IGC, but in the end it was decided that the EU should only foster close relations with the Western European Union in view of its possible integration into the EU. Most prominent was the creation of the office of High Representative for the Common and Foreign Security Policy, which assists the Presidency in formulating common policies. But the voting rule has been changed to a so-called constructive abstention, which means that abstentions do not block common policies. In decisions without military or defense implications, the Council may even vote by qualified majority.<sup>32</sup>

Table 4 provides a detailed list of the issues of the Amsterdam draft proposal and the policy preferences of actors participating in the IGC negotiations. The positions of the seventeen participating delegations were collected by the Task Force of the European Parliament (EP) in preparation for the IGC.<sup>33</sup> The first column of Table 4 lists the number of the issue, the second indicates the content of the issue, and the

32. The European Parliament itself has utilized these positions in its regular work (see Parliament's White Paper on the IGC, Vols. I and II, and the briefings on the IGC). The data reported in Table 4 stem from the sixth final update drawn up by memorandums, press reports, and so forth. The Task Force emphasizes that, despite their provisional nature, the tables of policy positions "offer a reasonably reliable summary of the present situation as regards the IGC and should improve understanding of the Conference" (JF/bo/290/97, 12/5/1997, 1). While the Reflection Group had stated that a major aim would still be to prepare the EU's institutions for enlargement, an agreement on the number of Commissioners, the Council's voting thresholds, and the member states' voting weights could not be reached. By contrast, the protocol makes enlargement dependent on the EU's ability to reform its institutions and notes compensation for member states that have to give up their second Commissioner. That the EU could not find a solution is best illustrated by the treaty's provision stating that another IGC has to carry out a "comprehensive review" of its institutional provisions a year before the EU will exceed twenty members. Some progress has, however, been achieved on procedural transparency by simplifying the range of possible legislative procedures. Except for monetary policy provisions, the cooperation procedure has been largely abolished, and the EP has obtained a veto right under the (modified) co-decision procedure. At the same time, the notion of flexibility contrasts with the achievements on transparency since it is rather unclear how arbitrary the application and interpretation of its general conditions and specific limits will be. Therefore, flexibility seems to be an alternative option for flexible enlargement, rather than a solution that increases transparency.

33. The issues of these tables have been coded as one-dimensional issues with positions on ordinal scales ranging from 0 to 1.0. In addition to the seventeen positions on each issue, we coded the status quo and the Amsterdam bargaining result.

third column attributes the issue to the policy domains defined in Table 2. Columns 4 to 6 show the number of member states sharing a policy position and the position of the Commission (C) and the EP. We also depict the location of the legal SQ (+) and the Amsterdam outcome (\*). There appears to be a polarized distribution of policy positions over all issues, with actors either opposed to (0) or in favor of (1) these policies; only a few occupy positions between these two extremes. For most issues, about two-thirds of the member states support a modification of the status quo; they are more reserved in the area of citizenship (issue area I), however, and even more reserved regarding the introduction of new policies (issue area VI). In almost all cases, the EP has a pro-integrative policy position and the status quo is located at the non-integrative position. However, there is no clear pro- or anti-integrative tendency in the distribution of member state policy positions.<sup>34</sup> Since treaty reforms require the unanimous support of all member countries, this suggests that some bargaining had to take place.

Even though these data do not indicate the salience of the delegations' preferences on each issue, the information on the various actors' policy positions allows us to check whether there have been restrictions on further integration. As already mentioned, Moravcsik and Nicolaidis<sup>35</sup> argue that governments widely circulated the draft proposals to minimize the possibility of subsequent ratification failures. We first assess this argument by analyzing whether IGC actors strategically excluded conflictual policy issues, allowing them to raise the overall support for the draft text. Second, we examine whether some member states performed better than others in bargaining over the draft treaty. Table 5 provides results of a preliminary analysis depicting for each national delegation and supranational actor the distance between its preferred outcome for each issue and the Amsterdam draft treaty and the status quo, respectively. Given that the IGC started with seventy-nine issues, and assuming for simplicity that all issues were equally important to all member states, the maximum distance between an actor's position and the outcome would equal seventy-nine. This maximum distance can occur, for instance, if a maximalist draft treaty proposes changes from SQ on all policies, but the delegation prefers SQ on all of them.<sup>36</sup>

Almost systematically, at least one supranational actor supported a more integrative position. Consequently, our assumption goes well with supranational actors preparing the IGC negotiations with a maximalist proposal. The governmental actors then attempted to work themselves through this ambitious menu and dropped

34. The analyses we present below on the basis of our two hypotheses and using the data presented in Table 4 give some of the reasons for the member states' final choices. Thus the special cases of issues 41, 43, and 56, where a large majority preferred no integration, but the Amsterdam treaty envisioned an integrative solution, are explicable with the model depicted in Figure 1. Countries might be indifferent between the status quo and the draft proposal, even if they do not favor an integrative solution on some issues. (We wish to thank an anonymous reviewer for drawing our attention to these issues.)

35. Moravcsik and Nicolaidis 1998, 1999.

36. For simplicity we measure distances with a city-block measure and assume that these distances relate monotonically to the various actors' utility.

TABLE 4. *Preferences over 79 policies of Amsterdam delegations*

No.	Issue	Issue area	Policy preferences	
			No Integration (0)	Pro-Integration (1.0)
1	Fundamental and human rights	I	2+*	0.5 13,c,ep
2	Accession to European Court of Human Rights	I	4+*	1(.75) 10,c,ep
3	Non-discrimination	I	1+	14,c,ep*
4	Women's equality	I	4+	11,c,ep*
5	Add social/economic rights	I	5+*	10,c,ep
6	Free movement of persons	I	8,c+*	7,ep
7	EU citizenship not to replace national citizenship	I	15,c,ep+*	
8	Public services as right of EU citizens	I	15,c,+*	ep
9	Protection by European Court of Justice and direct access for EU citizens	I	5+*	10,c,ep
10	Right to information and freedom of expression	I	1+	14,c,ep*
11	Develop political citizenship	I	7,c+*	8,ep
12	Introduce list of fundamental rights	I	7,c+*	8,ep
13	Outlaw death penalty and/or racist acts	I	2+*	1(.5) 12,c,ep
14	Political promotions for young people	I	12,c+*	3,ep
15	Recognition of cultural/linguistic diversity and protection of minorities	I	8,c+	7,ep*

*(continued)*

TABLE 4. *continued*

<i>No.</i>	<i>Issue</i>	<i>Issue area</i>		<i>Policy preferences</i>	
16	Promotion of the cultural dimension	I	8,c+		7,ep*
17	Non-discrimination for resident third-country nationals	I	12+*		3,c,ep
18	Introduction of ZIJP	II	2+	12(.5)*	1,c,ep
19	Improve third pillar instruments	II	+		15,c,ep*
20	Improve Art. 42 (passerelle)	II	1+	20(0.625)	12,c,ep*
21	Communitarization of visa policy	II	+	3(.875)(.625)(.5)	12,c,ep*
22	Communitarization of asylum policy	II	+	3(.875)(.625)(.5)	12,c,ep*
23	Communitarization of immigration policy	II	+	4(1 × .875)(2 × .625)(1 × .5)	11,c,ep*
24	Communitarization of rules on external frontiers	II	1+	4(1 × .875)(3 × .625)	14,c,ep*
25	Communitarization of action against fraud	II	12+*		3,c,ep
26	Communitarization of anti-drugs action	II	8+*	4(.875)	3,c,ep
27	Communitarization of legal cooperation in civil matters	II	3+*	5(4 × .5)(1 × .75)	7,c,ep
28	Community procedures for police cooperation	II	7,c+	3(.875)	5,ep*
29	Idem customs cooperation	II	3+	5(2 × .5)(2 × .875)(1 × .75)	7,c,ep*
30	Idem cooperation in legal and criminal matters	II	10+*	3(1 × .5)(1 × .75)(1 × .875)	2,c,ep
31	Reinforce anti-terrorist measures	II	8+		7,c,ep*
32	Incorporate Schengen	II	2+	4(.875)	9,c,ep*



TABLE 4. *continued*

<i>No.</i>	<i>Issue</i>	<i>Issue area</i>	<i>Policy preferences</i>	
33	Employment as “guiding principle” of EMU	III	6,c+*	9,ep
34	Reinforce EU objectives	III	2,c+	13,c,ep
35	Coordinate efforts of governments and social partners	III	+	15,c,ep*
36	Include social protocol in Treaty	III	+	15,c,ep*
37	New Treaty chapter “a Union for Employment”	III	3+	12,c,ep*
38	Inclusion in Treaty of “conclusions of Essen, Cannes, and Madrid”	III	2+	13,c,ep*
39	Creation of a Committee for Employment	III	4+	11,c,ep*
40	Incorporate Charter of Fundamental Social Rights	III	10+	5,c,ep*
41	Direct action to combat social exclusion	III	13+	* 2,c,ep
42	Adoption of measures to enhance European competitiveness	III	14+*	1,ep
43	Differentiated and specific treatment	V	11,c+	4,ep*
44	Include among EU objectives	IV	1+	14,c,ep*
45	Reinforce sustainable development	IV	+	15,c,ep*
46	Participation implementation of common policies	IV	1+	14,c,ep*
47	Integral part of all EU policies	IV	3+	1(.5) 11,c,ep*

TABLE 4. *continued*

<i>No.</i>	<i>Issue</i>	<i>Issue area</i>		<i>Policy preferences</i>	
48	Inclusion of title on animal welfare	IV	11,c+	*(.25)	4,ep
49	Strengthening of environmental impact reports	IV	14,c+*		1,ep
50	Transparency as a principle of the EU	V	2+		13,c,ep*
51	Introduction of sanctions by Member States and legal basis	II	10+		5,c,ep*
52	Introduction of general flexibility clause (1. Pillar)	V	7,ep+	c(.5)	8*
53	Introduction of general flexibility clause (2. Pillar)	V	3,ep+*	c(.5)1(.875)	11
54	Introduction of general flexibility clause (3. Pillar)	V	12,ep+	c(.5)1(.875)	2*
55	Implementation mechanism: request from MS plus assent of Commission (except CFSP)	V	12+*	C(.875)	3,ep
56	Fifth resource	V	15,c+*		ep
57	Multiannual programmes in Treaty	V	13,c+*		2,ep
58	Energy	VI	11+*		4,c,ep
59	Tourism	VI	9+*	c(.5)	6,ep
60	Civil protection	VI	10+*	c(.5)	5,ep
61	Treaty provisions on sport	VI	13+*		2,c,ep
62	Reinforce consumer protection	VI	7+	*	8,c,ep
63	Separate title on fisheries	VI	14+*		1,c,ep
64	Harmonize certain forms of taxation (QMV)	VI	13+*		2,c,ep
65	European public service charter in Treaty	VI	10+*	1(.875)	4,c,ep

*(continued)*

TABLE 4. *continued*

<i>No.</i>	<i>Issue</i>	<i>Issue area</i>	<i>Policy preferences</i>		
66	Reinforce role of economic and social cohesion	VI	8,c+*		7,ep
67	Reinforce economic coordination	V	13,c+		2,ep*
68	Move towards integration into Community Pillar	VII	7+	*	8,c,ep
69	International legal personality for the EU	VII	3+*	1(.5)	11,c,ep
70	Extension of Art. 113	VII	4+	4(3 × .5)(1 × .875)	7,c,ep*
71	Communitarization of EDF	VII	15,c+*		ep
72	Diplomatic representation of EU	VII	13+*		2,c,ep
73	Political solidarity clause	VII	5		10,c,ep+*
74	Financial solidarity clause	VII	15+*		0,c,ep
75	Gradual integration into the EU	VII	8+		7,c,ep*
76	Incorporation of "Petersberg missions"	VII	1+	1(.5)	13,c,ep*
77	Deletion of Art. 233 and introduction of common policy on armaments	VII	11+*	2(.875)c(.5)	2,ep
78	Common defense policy for protection of Member States' frontiers and territorial integrity	VII	6+*		9,c,ep
79	The WEU as the European pillar of NATO	VII	5+*	1(.5)	9,c,ep

*Abbreviations:*

1-15 = Number of member states

c = Commission

ep = European Parliament

+ = Status quo

\* = Amsterdam Treaty

items on which no agreement could be reached. Since SQ corresponds almost always to the non-integration position, our assumption of a maximalist package implies that the draft treaty envisioned more integration on most of these issues.

In the first two rows of Table 5, we report the distances of IGC actors with respect to the status quo (sq) and the draft Amsterdam proposal (am'). The difference between these two distances (dist sq – am'), reported in the fourth row, indicates whether a government or a supranational actor preferred SQ or the draft proposal discussed at the IGC. If the value for a given actor is positive, then the draft proposal is closer to the preferred policy of this actor than SQ, while a negative value indicates the opposite. The findings show that, for the seventy-nine IGC issues, both supranational actors have the largest distance from SQ, except for Belgium and Italy, while seven countries are located rather close to the status quo (UK, Ireland, Denmark, Germany, Sweden, France, and Finland). Since these countries also have, by definition, large distances to the draft proposal, they all have negative values for the difference in the two distances (dist sq-dist am').

Considering Pareto-superiority, such negative values preclude the adoption of a treaty under unanimity rule, since some actors prefer the status quo. The picture changes, however, when we look at the final Amsterdam Treaty, which only comprises changes to the status quo on forty issues. The third row in Table 5 reports the distance between each actor's ideal-point and the final issues of the Amsterdam Treaty (dist am). Even though France, Germany, Italy, and Portugal still have large distances to the final Amsterdam Treaty, they also have large distances to the status quo after the exclusion of almost half of the policy issues. Comparing again the distance to the status quo and the final Amsterdam Treaty, and subtracting these two distances (row 5 in Table 5), suggests that, for all governmental and supranational actors, the Amsterdam Treaty was finally preferable to the status quo. Hence, the subtraction of issues led to a treaty that was acceptable to all actors involved in the IGC.

This indicates that, although all participating actors benefited from eliminating the thirty-nine issues, some profited more than others. Comparisons of this type, namely across countries, are, however, fraught with difficulties that quantitative analyses in particular bring to the forefront. To determine whether some countries profited more than others, one must either have a common standard to assess gains and losses objectively across countries, or to engage in interpersonal comparisons of utilities—a dangerous territory.<sup>37</sup> But any empirical test of hypotheses derived from a two-level game perspective reflecting the advantages or disadvantages of domestic ratification constraints must accept one of these two, hardly attractive, solutions.<sup>38</sup>

37. Keeney and Raiffa 1991 discuss these issues in great detail.

38. Readers unconvinced by this assumption can read what follows as based on interpersonal utility comparisons. Such comparisons are quite common in the relative gains debate in international relations. It is also useful to note that they are quite common in qualitative studies on bargaining, for instance in the EU (for example, Milner 1997, chap. 8; and Moravcsik 1998), where assessments of who won more in a bargain are recurrent. Hence, rejecting interpersonal utility comparisons or a common standard to assess gains and losses would put into jeopardy any empirical tests of central hypotheses derived from two-level games.

TABLE 5. Actors' distances from the status quo (sq), the Amsterdam proposal (am'), and the final Amsterdam Treaty (am)

	COM	EP	B	DK	D	GR	E	F	IRL	I	LUX	NL	A	P	SF	S	UK
dist sq	51.88	74.00	58.00	28.75	34.25	48.50	46.88	33.13	27.13	54.50	45.50	41.37	49.00	41.00	34.12	32.50	26.00
dist am'	27.13	5.00	21.00	50.25	44.75	30.50	32.13	45.88	51.88	24.50	33.50	37.63	30.00	38.00	44.88	46.50	53.00
dist am	28.13	40.75	29.25	18.75	30.00	27.75	28.38	31.12	24.63	31.25	21.75	18.62	25.25	30.25	21.88	19.75	24.75
dist sq - dist am'	24.75	69.00	37.00	-21.50	-10.50	18.00	14.75	-12.75	-24.75	30.00	12.00	3.75	19.00	3.00	-10.75	-14.00	-27.00
dist sq - dist am gains	23.75	33.25	28.75	10.00	4.25	20.75	18.50	2.00	2.50	23.25	23.75	22.75	23.75	10.75	12.25	12.75	1.25
dist am' - dist am	-1.00	-35.75	-8.25	31.50	14.75	2.75	3.75	14.75	27.25	-6.75	11.75	19.00	4.75	7.75	23.00	26.75	28.25

Note: Com = Commission, EP = European Parliament, B = Belgium, DK = Denmark, D = Germany, GR = Greece, E = Spain, F = France, IRL = Ireland, I = Italy, L = Luxembourg, NL = Netherlands, A = Austria, P = Portugal, SF = Finland, S = Sweden, UK = United Kingdom, dist am' = distance to initial Amsterdam drafty treaty, dist sq = distance to status quo, dist am = distance to final Amsterdam Treaty.

Without comparing interpersonal utilities, we take a closer look at the impact of ratification constraints on the subtraction of issues. This analysis will focus on the relationship between the proportion of subtracted issues and the number of countries with ratification constraints. In what follows we will, however, use these distances to specify this relationship. Given our measures of distances and our assumptions concerning the equality of salience on the various issues, we presume that the distances give us a common, objective standard to assess gains and losses incurred by the negotiators in Amsterdam.<sup>39</sup>

Under these conditions, we find that countries preferring the status quo to the maximalist draft proposal could reduce their distances toward the finally-adopted treaty. These differences between the two distances are shown in the last row of Table 5. They clearly suggest that the seven countries with negative values in row 3 of Table 5 gained much at the IGC. Incidentally, the Netherlands and Luxembourg, which both preferred the draft proposal to the status quo, profited quite considerably as well. The two supranational actors, together with Belgium and Italy, on the other hand, lost out in the negotiations. Not surprisingly, these four actors were also those with the strongest preference for the maximalist package. Hence, subtracting a series of issues was unlikely to make these actors suddenly prefer the status quo to the Amsterdam Treaty.

## Issue Subtraction and Domestic Constraints

The strong influence of the IGC actors' preferences on the bargaining outcome is clearly shown in the following analysis. Since the IGC issues listed naturally fall into seven categories, we determined for each of these categories the proportion of issues being dropped from the table during the negotiations.<sup>40</sup> For each issue area, we also counted the number of governments that preferred the status quo to the draft proposal. Figure 2 shows a strong relationship between our two indicators. While in issue areas where only one or two governments preferred the status quo (namely, employment [III] and environmental [IV]) hardly any items were dropped from the Amsterdam draft proposal; in others more than half the topics were subtracted. For instance, in the area of new policies (issue area VI), fourteen out of the fifteen countries preferred the status quo to the Amsterdam draft proposal. Not surprisingly, eight of the nine issues in this area were left out and remained at the status quo.

39. Using ordinal rankings of these distance changes would avoid theoretical confusions about interpersonal utility comparisons, but provide less crisp empirical insights into this relationship.

40. We consider issues where the Amsterdam treaty envisioned no changes from the status quo as issues that were taken off the table. These appear in Table 4 as those where the status quo and the final Amsterdam treaty are at the same location.

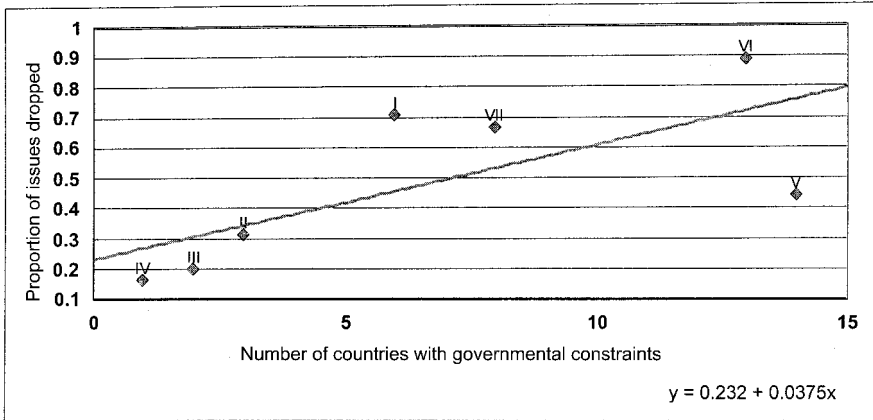


FIGURE 2. Subtraction of issues and governmental preferences in seven issue areas

The results depicted in Figure 2 provide considerable support for our first hypothesis and for a liberal intergovernmentalist view on the bargaining process.<sup>41</sup> If the preferences of the governmental actors reported in Table 5 already incorporate the preferences of domestic actors, a strong relationship can be expected. While Figure 2 clearly shows an important link between national preferences and negotiation outcomes, this analysis is probably too coarse. First, the literature on two-level games would suggest that ignoring domestic ratification institutions and actors is inappropriate. Second, it is too coarse since it stops short of looking more closely at the gains and losses that the various governments incurred at the IGC.

The results indicate that the IGC negotiations led to changes favoring some countries to the disadvantage of the interests of others. While some of these changes can certainly be explained by the fact that some governments had a preference for the status quo over the draft proposal, others remain unexplained. For instance, Denmark and Germany had rather similar overall preferences, as depicted in the first two rows of Table 5. But Denmark's gain, as reported in the last row, was twice as large as Germany's. The following analysis examines whether or not domestic ratification constraints played a significant role in this regard. Hence, we take a closer look at the two-level nature of the bargaining process with respect to issue subtraction and the member states' bargaining power, which is the realm of our second hypothesis.

For our analysis we rely on the gains-indicator reported in Table 5. More precisely, this indicator measures the differences between the distances from an actor's ideal-point to the draft proposal and the final adopted Amsterdam Treaty. Subtracting these distances from each other shows how much closer the final policy

41. Moravcsik 1998. Analyses of the Amsterdam IGC largely based on this assumption appear in Moravcsik and Nikolaidis 1998, 1999, and forthcoming.

TABLE 6. *Explaining the gains at the IGC*

	<i>b</i> ( <i>s.e.</i> )	<i>b</i> ( <i>s.e.</i> )	<i>b</i> ( <i>s.e.</i> )
Number of issue areas where government prefers status quo	5.00 (2.33)		
Number of issue areas where parliamentary pivot prefers status quo		4.65 (2.53)	
Number of issue areas where both government and parliamentary pivot prefer status quo			11.58 (4.86)
Number of issue areas where only parliamentary pivot prefers status quo			5.66 (2.09)
Number of issues areas where only government prefers status quo			5.88 (3.38)
Constant	6.73 (4.26)	2.54 (6.63)	-7.67 (6.42)
Standard error of the estimate	11.27	11.68	9.47
<i>N</i>	15	15	15

moved to the actor's ideal-point. Obviously, larger moves are preferable, while negative values indicate that the draft proposal was closer to the actor's preferred outcome than the finally adopted Amsterdam Treaty. This difference is the central dependent variable in the following analyses. Table 6 reports the results of three simple models attempting to explain the governments' gains and losses in the various issue areas. In the first model (first column of Table 6), we simply used the number of times a particular government preferred the status quo to the draft proposal in the six issue areas as an independent variable.<sup>42</sup> As the results suggest, this intergovernmentalist explanation explains to a large degree the gains and losses of the various governments. For each additional issue area where a government preferred the status quo, it could hope for a gain of five points in the negotiations. In the second model we used the same number, but based on the parliamentary ratifying pivot. Again, as the number of issue areas in which the parliamentary pivot prefers the status quo increases, the government may expect a gain. This gain, however, is slightly smaller, just below five points.

According to our second hypothesis, however, gains should be highest when both government and ratifying pivot prefer the status quo. Model 3 (third column in Table 6) tests this expectation and supports our hypothesis. If both government and parliamentary ratifying pivot prefer the status quo in a particular issue area, the government may on average expect a gain of more than eleven points. If only the government prefers the status quo, while the parliament is happy with the draft proposal,

42. Since we could not rely on any information in the *Eurobarometer* for the preferences in one issue area, we had to drop it from this analysis.



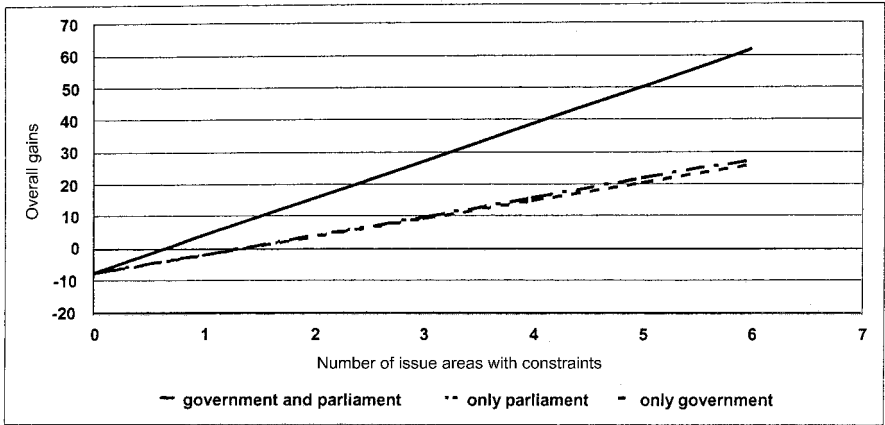


FIGURE 3. Constraints and overall predicted gains

the gain is slightly less than six. This gain is almost identical to the one a government might expect if only the parliament prefers the status quo in an issue area.

Figure 3 illustrates these results. As the number of issue areas with constraints increases, governments may expect larger gains, provided that these constraints do not appear only in the parliamentary arena. The effect of constraints is highest if they are shared by the government and parliamentary ratifying pivots, and slightly less in the case of only governmental or parliamentary constraints. This clearly supports the view that domestic ratification institutions matter for the bargaining results at the international level of treaty negotiations.

## Conclusion

The ratification of the Amsterdam Treaty hardly aroused the public's attention, which in this paper, we consider a clear indication of the two-level nature of international bargaining. By subtracting conflictual issues, member states not only increased their own support for the Amsterdam Treaty, but also guaranteed a smoother domestic ratification process. Our empirical analyses show that the fifteen member states involved in the IGC negotiation for the Amsterdam Treaty largely succeeded in this endeavor. However, it is clear that domestic ratification constraints, determined by the institutionally-defined ratification hurdles and the preferences of the relevant ratifying actors, influence the outcome of the bargaining process. Although we have shown no salience measures of the negotiators' preferences, we show that those countries preferring the status quo in a particular issue area were much more likely to move the bargaining outcome toward their ideal-point if their domestic ratifying pivot also preferred the status quo to the draft treaty.

This outcome was possible by reducing the set of issues (issues subtraction) initially proposed to modify the treaty.

We obtained our results on the basis of a two-level game analysis that we tailored to the particular empirical case. It is our firm belief that, given the conditional nature of most insights of two-level games, only such tailored models are useful in empirical research. Thus our model envisioned the bargaining process taking place over a multiple set of issues and involving numerous negotiators. Given such multilateral negotiations in a multidimensional space, we assumed that the final treaty ultimately had to belong to the Pareto set of the member states. Other than this widely acknowledged assumption, we adopted more restrictive assumptions that are grounded in the empirical material we used. Following to some degree David Keeney and Howard Raiffa's analysis,<sup>43</sup> we first assumed that each issue being discussed could be set either at an integration or no-integration solution. Second, the negotiations started off from a maximalist draft treaty, and governments subtracted issues in such a way that the final treaty became an element of the Pareto set. Third, in this process of subtracting issues, the governments considered the ratifying constraints in several issue areas separately. We also assumed that all negotiators had the same information on how the various domestic ratifying pivots mapped on to the bargaining space. Thus bargaining gains were the most likely for governments with preferences closer to the status quo in an issue area where the ratifying pivot had similar preferences.

Given the restrictive assumptions of our model, a central question is whether or not our findings are generalizable to other situations. Before answering this question, we note that our model could easily be refashioned to account for processes in which issues are added in the negotiating process. While starting from a maximalist treaty is probably indicative of negotiating situations where supranational actors prepare a draft treaty, issue addition might be more prevalent in negotiating situations where no such actors are present. As others have shown,<sup>44</sup> such additions and subtractions of issues (and parties) are quite common in international negotiating processes. Moreover, we relied on having a simple multidimensional bargaining space with a limited set of solutions, namely two, for issues. Keeney and Raiffa show that this is often a useful starting point.<sup>45</sup> Finally, our model relied on the assumption that all negotiating parties had the same information on how the domestic ratifying pivots mapped on to the bargaining space in the various issue areas. While this assumption is not too far-fetched when applied to the Amsterdam Treaty negotiations, it is also the central assumption that allowed us to derive the hypotheses for our empirical research.

The generality of our model depends crucially on our informational assumption, which, while adequate for the ratification of the Amsterdam Treaty, might be ill-considered for other treaty ratifications. For example, the negative outcome of the

43. Keeney and Raiffa 1991.

44. See Sebenius 1983, 1984; and Lax and Sebenius 1991.

45. Keeney and Raiffa 1991.

Irish referendum on the Nice Treaty in June 2001 suggests that the lesson learned from the involuntary defections in the Maastricht Treaty ratifications<sup>46</sup> failed to have long-lasting effects. Still, it seems likely that, in future IGC negotiations, the negotiating parties will vet in similar ways the different draft proposals as they did for the Amsterdam Treaty. If such vetting processes are sufficiently transparent, our informational assumption might also apply to many other negotiating situations. This will most likely be the case in situations where the same parties negotiate repeatedly over a series of treaties.

If the issues being considered in the bargaining process have the characteristics of the ones we considered here, our analyses can also be carried out *ex ante*, thus allowing us to make some predictions about future bargaining outcomes. Consequently, if *ex ante* preference measures are available for future negotiations, our model could be used to predict features of the final treaty that will be adopted. It is important to note, however, that the assumptions on which our model is based can only be assessed *ex post*, namely after the treaty has been negotiated and ratified.

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## Appendix

### *Ratification Process*

*Austria:* The ratification of the Amsterdam Treaty required a special constitutional law before matters on the treaty proper could be decided. Such a law requires the presence of at least half of the members of parliament and a two-thirds majority of the votes (Const. Art. 44.1). The Austrian parliament adopted both proposals with the required majorities on 9 July 1998.<sup>47</sup>

*Belgium:* The parliament ratified the Amsterdam Treaty on 5 February 1999<sup>48</sup> (February 1999) with the last vote necessary, namely that of the Brussels region. All other parliaments, namely the upper and lower house and the regional and community assemblies, had already adopted the treaty well before, each according to the requirement of a simple majority.<sup>49</sup> The consent of the regional and community parliaments became necessary because the Amsterdam Treaty infringed on some of their powers.

*Denmark:* The Danish parliament voted on the Amsterdam Treaty on 7 May 1998, with 92 MPs voting in favor, and 22 against, thus failing to clear the requirement of a 5/6 majority of the 175 MPs.<sup>50</sup> Hence, the ratification could only be completed by holding a referendum; the same situation as had happened with the Maastricht Treaty. Despite some shivers, Denmark ratified the Amsterdam Treaty by referendum on 28 May 1998 with 55.1 percent voting in favor.<sup>51</sup>

*Finland:* The Finnish president ratified the Amsterdam Treaty on 19 July 1998.<sup>52</sup> This followed the parliamentary ratification, which required a constitutional change. According to Art. 69.1 of the Parliament Act, treaties necessitating constitutional amendments can only be adopted if two-thirds of the members of parliament vote in favor. The Amsterdam Treaty easily cleared this ratification hurdle on 15 June 1998 with the support of more than two-thirds of the MPs.<sup>53</sup>

*France:* On 31 December 1997 the French constitutional court came to the conclusion that the ratification of the Amsterdam Treaty required a constitutional change.<sup>54</sup> More than a year later, on 18 January 1999, the French parliament adopted in a joint session in Versailles, by the Congress method, a constitutional amendment. It achieved the required three-fifths majority with 758 votes in favor and 111 against.<sup>55</sup> Subsequently, the lower house voted on 3 March with 447 in favor, 75 against, and 10 abstentions, followed by the Senate on 16 March 1999 with 271 in favor and 41 against to adopt the Amsterdam Treaty.<sup>56</sup>

*Germany:* The German *Bundestag* ratified the treaty on 5 March 1998 by a vote of 561 in favor, 34 against, and 50 abstentions.<sup>57</sup> The *Bundesrat* voted unanimously for the treaty on

47. European Union 1999.

48. *Agence France Press*, 6 February 1999.

49. European Union 1999.

50. *Agence France Press*, 8 May 1998.

51. European Union 1999.

52. *Agence France Press*, 10 July 1998.

53. *Agence France Press*, 15 June 1998.

54. European Information Service, *European Report*, 7 January 1998 and Millns 1999.

55. *Agence France Press*, 18 January 1999.

56. *Agence France Press*, 16 March 1999.

57. *Agence France Press*, 5 March 1998.

27 March.<sup>58</sup> Thus it fulfilled the requirement of bicameral approval by two-thirds majorities, which had become necessary since the Amsterdam Treaty infringed on some prerogatives of the *Länder* and infringed on the constitution.

*Greece:* The Greek parliament adopted the Amsterdam Treaty on 17 February 1999,<sup>59</sup> clearing the three-fifths majority hurdle that exists for ratification of treaties transferring powers to supranational organizations.

*Ireland:* Ireland adopted the necessary constitutional change by referendum on 22 May 1998, with 61.7 percent of the voters voting in favor. Subsequently the *Seanad* (18 June 1998) and the *Dail* (25 June 1998) ratified the Amsterdam Treaty by simple majorities, as required by the constitution.<sup>60</sup>

*Italy:* The lower house ratified the Amsterdam Treaty on 25 March 1998 by 428 in favor, one vote against, and 44 abstentions.<sup>61</sup> Thus it easily cleared the constitutionally-required simple majorities in both chambers.

*Luxembourg:* The lower house approved the Amsterdam Treaty on 9 July 1998 by 55 in favor and 4 abstentions<sup>62</sup> and thus easily fulfilled the requirement of a two-thirds majority in parliament, which is required for treaties transferring powers to supranational organizations.

*Netherlands:* The upper house (75 members) unanimously approved the Amsterdam Treaty on 22 December 1998.<sup>63</sup> It thus followed the *Tweede Kamer* (lower house), which had adopted the treaty on 5 November 1998.<sup>64</sup> The constitution in both cases requires simple majorities for the ratification.

*Portugal:* The Portuguese government originally attempted to adopt the Amsterdam Treaty by referendum. The constitutional court, however, judged the question to be too vague and rejected the call for a referendum.<sup>65</sup> Subsequently, the Portuguese parliament adopted the treaty on 6 January 1999<sup>66</sup> by the required simple majority.

*Spain:* Both chambers of the Spanish parliament adopted the treaty in the fall of 1998, namely on 8 October (Chamber of Deputies) and 24 November (Senate),<sup>67</sup> by the constitutionally-required simple majorities.

*Sweden:* The Swedish parliament ratified the Amsterdam Treaty on 29 April 1998 by 226 votes in favor, 40 against, and 7 abstentions.<sup>68</sup> The constitution requires for ratification a three-quarters majority to ratify a new treaty, provided the treaty transfers powers to a supranational organization.

*United Kingdom:* The Amsterdam Treaty was adopted by the House of Commons on 19 January 1998, followed by the House of Lords on 11 June 1998.<sup>69</sup> Thus, the parliament translated the Amsterdam Treaty into national law, which requires simple majorities.

58. *Agence France Press*, 27 March 1998 and European Information Service, *European Report*, 1 April 1998.

59. European Union 1999.

60. European Union.

61. *Agence Europe*, No. 7201, 16 April 1998 and *Associated Press*, June 1998.

62. *Agence Europe*, No. 7261, 1 July 1998.

63. *Agence France Press*, 22 December 1998.

64. European Union 1999.

65. *Neue Zürcher Zeitung*, 7 July 1998, 5.

66. European Union 1999.

67. European Union 1999.

68. *Agence France Press*, 29 April 1998.

69. European Union 1999.