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A microlevel focus on the interplay between activist culture, state repression, and collective protest in semiauthoritarian regimes also raises several issues for future research. First, why (and when) are certain activist groups able to innovate quickly while others remain mired in suboptimal past practices? This question of innovation is especially relevant in light of current efforts by states and NGOs alike to promote democratization by supporting civil society organizations in semiauthoritarian countries. These efforts would be improved significantly if we were able to identify both the organizations that are capable of adaptation and the types of appeals that are likely to resonate among local populations. In short, by opening the black box of organizational culture, we gain insight into the sources of oppositional capacity and, ultimately, into the vulnerabilities of semiauthoritarian regimes across diverse national contexts.

FROM UNANIMITY TO CONSENSUS
An Analysis of the Negotiations at the EU's Constitutional Convention

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INTRODUCTION

ALTHOUGH French and Dutch voters rejected the Treaty Establishing a Constitution for Europe in referendums held in spring 2005, the drafting of a constitution for the world's second-largest economic power, the European Union (EU), remains a major political event in the history of European integration.[1] If the constitution or a revised version of it does eventually come into force, it will change the rules of the game for EU member states. If not, the provisions of the EU's Nice Treaty would remain in place and define the status quo for the bargaining actors.[2] Understanding how this constitution emerged, how the text was drafted and adopted, and how this new constitutional process differed from past treaty negotiations is one of the most important tasks facing scholars of the EU today.[3]

Because of the relatively open nature of the constitutional convention, the negotiations present scholars of international relations and comparative politics with an opportunity to study bargaining in a setting governed by few formal rules. Specifically, there was no formal

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[1] After the negative popular votes in France and the Netherlands, seven countries announced their ratification processes, while Latvia, Cyprus, Malta, Luxembourg, and Estonia ratified the proposal. Finland signed in autumn 2006. The German presidency is expected to consider possible solutions to revive the process after the French and Dutch elections in 2007.

[2] Thomas König, "Measuring and Analysing Positions on European Constitution-building," *European Union Politics* 6, no. 3 (2005).

[3] George Tsebelis, "The European Convention and the Rome and Brussels IGCs: A Veto Player Analysis," in Thomas König and Simon Hug, eds., *Policy-making Processes and the European Constitution: A Comparative Study of Member States and Accession Countries* (London, New York: Routledge/ECPR Studies in European Political Science, 2006).

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voting rule at the convention.[4] We use new survey data combined with theoretical insights from spatial models to estimate the rules that governed how delegates to the convention designed the draft constitution. We provide a method for gaining empirical insight into the reasons for winning and losing at negotiations that have no explicit voting rule, as well as a method for estimating what the underlying voting rule is. In addition, we examine how the constitutional convention differed from the intergovernmental conferences (IGCs) at which the EU has drafted its reform documents in the past and why the convention succeeded in making important institutional changes where previous IGCs have failed. Whereas previous treaty revisions had a unanimity requirement, the convention, as we demonstrate, relied on "qualified consensus" as its decision-making rule, something less than unanimity but more than a simple majority. This allowed delegates to make major institutional changes not possible at previous treaty negotiations, but it may also have led to the difficult ratification process.[5] Confirming theoretical predictions of spatial bargaining models, we demonstrate that proximity to the status quo and to the convention floor median were sources of power for delegates at the convention. Other traditional sources of power, such as belonging to the delegation of a large member state, were not important for bargaining strength.

The article proceeds as follows. First, we provide an introduction to the Laeken Convention and summarize the literature on intergovernmental negotiations in the EU more generally. We then derive hypotheses about potential sources of winning from a spatial model, present our data on the bargaining outcomes and positions of the convention delegates, examine these hypotheses in light of the data, and finally draw our conclusions about the convention's informal voting rule and the determinants of winning for delegates.

The Laeken Convention and European Integration

European integration can be understood as a series of international bargaining agreements on institutionalized cooperation—treaties that must find consensus among the member states of the EU.[6] From the Treaties of Rome in 1957 to the Nice Treaty in 2003, a growing number of member states have incrementally reformed and intensified their institutionalized cooperation, which established a set of rules for legislative decision making.[7] This cooperation has expanded in terms of scale and scope.

> —The number of integrated policy sectors increased from the three core national security sectors of coal and steel, nuclear, and agriculture politics to the core national sectors of economic, internal, and foreign politics.[8]
>
> —The amount of binding legislation increased from a few regulations to more than 350 pieces of legislation per year.[9]
>
> —The complex institutional framework established a European Commission with almost exclusive rights to initiate legislative proposals and a European Court of Justice guaranteeing supremacy of EU law; it facilitated the participation of the European Parliament by introducing new legislative procedures; and it allowed the effective use of qualified majority voting among the member states in most policy sectors.[10]
>
> —The EU expanded from the original six members to twenty-five countries with the most recent accession of ten countries from Eastern and Southern Europe that are relatively poor and small in size.[11] Bulgaria and Romania will presumably become members at the end of 2006, and Croatia is waiting to join the club in the near future.

These developments stimulated debate on a European constitution, leading to the Laeken Convention, prior to which the EU had always undertaken the task of incremental treaty revision at IGCs. Because treaties produced at IGCs require the unanimous support of the member states, the process has often been marked by strife, last-minute negotiations, and bargaining down to the lowest common denominator.[12] The IGC leading to the Treaty of Amsterdam simply dropped the most contentious institutional reforms, such as altering qualified majority

[4] There was some formal structure, however. For example, the presidency split the process into three phases and established a system of eleven working groups, which hindered trading across issues; see Thomas König, Andreas Warntjen, and Simone Burkhart, "The European Convention: Consensus without Unity?" and George Tsebelis, "Agenda Setting in the EU Constitution," both in König and Hug (fn. 3).

[5] Thomas König, "The Dynamics of the Two-Level Process of Constitution Building: Setting the Agenda by Agenda Setting," in Sonja Puntscher-Riekmann and Wolfgang Wessels, eds., *The Making of a European Constitution: Dynamics and Limits of the Convention Experience* (Wiesbaden: VHS, 2006).

[6] Andrew Moravcsik, *The Choice for Europe: Social Purpose and State Power from Messina to Maastricht* (Ithaca, N.Y.: Cornell University Press 1998).

[7] König, Warntjen, and Burkhart (fn. 4); and George Tsebelis (fn. 3).

[8] Moravcsik (fn. 6).

[9] Heiner Schulz and Thomas König, "Institutional Reform and Decision-Making Efficiency in the European Union," *American Journal of Political Science* 44, no.4 (2000).

[10] George Tsebelis and Geoffrey Garrett, "Legislative Politics in the European Union," *European Union Politics* 1, no. 1 (2000).

[11] Thomas König and Thomas Bräuninger, "Accession and Reform of the European Union: A Game-Theoretical Analysis of Eastern Enlargement and the Constitutional Reform," *European Union Politics* 5, no. 4 (2004).

[12] For descriptions of various IGC negotiations, see Leon Lindberg, *The Political Dynamics of European Economic Integration* (Stanford, Calif., London: Stanford University Press/Oxford University Press, 1963), 285; and Moravcsik (fn. 6).

voting weights and changing the number of commissioners, and left them for later negotiations.[13] The member states fared little better at the 2000 Nice IGC. Belgium and Portugal threatened to walk out of the negotiations at the eleventh hour, after the French president, Jacques Chirac, introduced a controversial Council voting plan that would have reweighted votes in favor of the large member states. In a last-minute compromise, the member states agreed to an arcane triple majority rule for qualified majority voting in the Council.[14] These results define the rules of the game and demarcate the status quo for the enlarging EU. However, the political and economic background of the new members suggests that the enlarged EU will face gridlock and that the institutional provisions of the Nice Treaty will not be able to accommodate necessary change.[15]

In light of recent and future enlargement, the contentious negotiations and inadequate results of the Amsterdam and Nice IGCs demonstrated to many member states the need to change the way they negotiated treaties so that they could generate the substantial institutional reforms that would be needed. The Laeken Declaration, which convened the convention and was announced as part of the December 2001 report of the Council presidency, gave as the reasons for the convention the need to simplify the structure of the EU treaties, the need to create a document more comprehensible to ordinary citizens, and the need to create more efficient, democratic, and transparent decision-making processes and institutions.[16] These were all goals that Amsterdam and Nice demonstrated were unattainable at a traditional IGC.

The Laeken Convention seems to have offered the EU a new instrument for constitutional bargaining by setting the reform agenda for a following IGC. Unlike typical IGC negotiations, composed of government representatives from member states and presided over by the EU Council president, the convention included delegates from different institutional backgrounds (member state governments, national parliaments, candidate countries, the Commission, and the European

[13] Simon Hug and Thomas König, "In View of Ratification: Governmental Preferences and Domestic Constraints at the Amsterdam Intergovernmental Conference," *International Organization* 56, no. 2 (2002); Jonathan B. Slapin, "Who Is Powerful? Examining Preferences and Testing Sources of Bargaining Strength at European Intergovernmental Conferences," *European Union Politics* 7, no. 1 (2006).

[14] For an analysis of the Nice Treaty and its effects, see George Tsebelis and Xenophon Yataganas, "Veto Players and Decision Making in the EU after Nice: Policy Stability and Bureaucratic/Judicial Discretion," *Journal of Common Market Studies* 40, no. 2 (2002).

[15] König and Bräuninger (fn. 11).

[16] The Laeken Declaration on the Future of Europe, December 14–15, 2001, Council Presidency Conclusions SN 300/1/01.

Parliament). This composition, as well as the preferences of these delegates, already suggests an orientation less biased in favor of the status quo than was the case at previous IGCs. Moreover, the convention proceeded under the direction of former French president Valérie Giscard d'Estaing, who controlled both the convention's organization and its agenda.[17] Specifically, Giscard announced that the convention would be governed by consensus rather than by unanimity and that he would not allow formal voting.[18] This removed power from the hands of the member states and allowed the convention to produce a more ambitious reform proposal compared to what previous IGCs had achieved.[19]

In 2003 the delegates to the Laeken Convention prepared a draft text that was adopted by the heads of government of twenty-five member states in June 2004. The draft consolidates all previous treaties into a single document, including the EU's Charter of Fundamental Rights, which had previously not been included in the treaties. It also makes numerous institutional and substantive changes. Although scholars debate their relative importance,[20] empirically we find that the convention adopted changes for fifteen of the twenty-six reform issues.[21] Compared with the Nice IGC, the convention adopted a much simpler Council voting rule (a double, rather than triple, majority), decreased the size of the Commission and created a system of rotation so member states have equal representation within the Commission, created a new EU foreign minister post, and finally created a new European Council president to replace the unwieldy six-month rotating Council presidency. While the final document produced by the convention was subject to modification at a later IGC, the member states left the convention draft relatively unchanged.[22]

In addition to the historical dimension of a European constitution, the Laeken Convention also raises several interesting questions about how constitutional bargains are reached. Recent empirical research testing competing theories of IGC bargaining strength has raised

[17] Tsebelis (fn. 4).

[18] Praesidium meeting conclusions 26/2/2002; Peter Norman, *The Accidental Constitution: The Story of the European Convention* (Brussels: Eurocomment, 2003); Tsebelis (fn. 3).

[19] König, Warntjen, and Burkhart (fn. 4).

[20] Andrew Moravcsik, "What Can We Learn from the Collapse of the European Constitutional Project?" *Politische Vierteljahresschrift* 47, no. 2 (2006); Tsebelis (fn. 4).

[21] The average change across all issues from the status quo on our 0–1 scale was not particularly high, only 0.37. The average change on those issues that did change was 0.67; see analysis.

[22] From the sixty-five reform issues at the following IGC, only five provide for more domestic competencies, while almost half of the issues propose to increase supranational competencies of the EU; König (fn. 2).

the question of who wins at IGCs and why.[23] These previous studies have found more bargaining power for large states,[24] domestically constrained states,[25] and supranational actors.[26] The Laeken data, however, afford us an opportunity to evaluate these previous findings in a new bargaining setting.

Agenda Setting, Status Quo Bias, and Bargaining Power

Bargaining success and bargaining power have attracted considerable attention in the literature on international and European politics.[27] Power has long been considered to be the capacity of an individual, group, or nation to control the behavior of others in accordance with its own ends.[28] Such power becomes apparent only when a disagreement arises, at which time the will of the more powerful party usually prevails.[29] Apart from military, economic, or—more generally—hegemonic power, information and credibility can have a decisive impact on the outcome of such bargains.[30] Like the credibility of threats and

[23] Slapin (fn. 13); Hug and König (fn. 13); Thomas König and Jonathan B. Slapin, "Bringing Parliaments Back In: The Sources of Power in the European Treaty Negotiations," *Journal of Theoretical Politics* 16, no. 3 (2004).

[24] Moravcsik (fn. 6); Andrew Moravcsik and Kalypso Nicolaidis, "Explaining the Treaty of Amsterdam: Interests, Influence, Institutions," *Journal of Common Market Studies* 37, no. 1 (1999); Paul Magnette and Kalypso Nicolaidis, "The European Convention: Bargaining in the Shadow of Rhetoric," *West European Politics* 27, no. 3 (2004).

[25] Madeleine O. Hosli, "The Creation of the European Economic and Monetary Union (EMU): Intergovernmental Negotiations and Two Level Games," *Journal of European Public Policy* 7, no. 5 (2000); Hug and König (fn. 13); Slapin (fn. 13).

[26] Simon Hix, "Constitutional Agenda-Setting through Discretion in Rule Interpretation: Why the European Parliament Won at Amsterdam," *British Journal of Political Science* 32, no. 2 (2002); Gerda Falkner, "How Intergovernmental Are Intergovernmental Conferences? An Example from the Maastricht Treaty Reform," *Journal of European Public Policy* 9, no. 1 (2002).

[27] Duncan Black, *Theory of Committees and Elections* (Cambridge: Cambridge University Press, 1958), 141; Edward C. Banfield, *Political Influence* (New York: Free Press, 1961), 331; Bruce Bueno de Mesquita and Franz Stokman, eds., *European Community Decision Making: Models, Applications and Comparisons* (New Haven: Yale University Press, 1994); Robert Thomson, Frans Stokman, Christopher Achen, and Thomas König, eds., *The European Union Decides* (Cambridge: Cambridge University Press, 2006).

[28] A. F. K Organski, *World Politics* (New York: Alfred A. Knopf, 1968), 4; Karl W. Deutsch, *The Analysis of International Relations* (Englewood Cliffs, N.J.: Prentice-Hall, 1968), 70; Hans J. Morgenthau, *Politics among Nations: The Struggle for Power and Peace* (New York: Alfred A. Knopf, 1966), 26.

[29] A. F. K Organski and Jacek Kugler, "The Costs of Major Wars: The Phoenix Factor," *American Political Science Review* 71, no. 4 (1977).

[30] Bruce Bueno de Mesquita, *The War Trap* (New Haven: Yale University Press, 1981); James Fearon, "Domestic Political Audiences and the Escalation of International Disputes," *American Political Science Review* 88, no. 3 (1994); idem, "Signaling versus the Balance of Power and Interests: An Empirical Test of a Crisis Bargaining Model," *Journal of Conflict Resolution* 38, no. 2 (1994); James D. Morrow, "Signaling Difficulties with Linkage in Crisis Bargaining," *International Studies Quarterly* 36 (1992); Kenneth A. Schultz, "Do Democratic Institutions Constrain or Inform? Contrasting Two Institutional Perspectives on Democracy and War," *International Organization* 53, no. 2 (1999).

promises, knowledge about the bargaining positions of others, a first-mover advantage, the location of the reversion point, the preferences and role of domestic institutions, and information about the strategies of the others can lead to a decisive bargaining advantage.[31] However, it is difficult to determine whether an actor wins because of his bargaining power or because he holds a systematic lucky position.[32]

Like the literature on international negotiations, studies on IGC bargaining have identified several potential sources of member state bargaining power, including size, domestic constraints, proximity to the status quo, and proximity to the center of the bargaining space. Here we identify when and how two potential sources of power, proximity to the status quo and proximity to the median voter, affect bargaining strength depending on the voting rule used. We then control for various other sources of power mentioned in the literature on intergovernmental bargaining.

Tsebelis has argued that Giscard both controlled the convention's agenda and designed the bargaining environment in such a way that he was the median voter.[33] This, Tsebelis continues, ensured that the final outcome would be very close to Giscard's position, the median. Work on earlier IGCs suggests that because of unanimity requirements, distance to the status quo is in fact a great source of power.[34] IGCs produce only incremental change and the outcome is likely to lie near the preferences of the least integrationist actor.[35] However, compared with previous IGCs, ten countries acceded and the composition of the con-

[31] Hug and König (fn. 13); Keisuke Iida, "When and How Do Domestic Constraints Matter: Two-Level Games with Uncertainty," *Journal of Conflict Resolution* 37, no. 3 (1993); idem, "Involuntary Defection in Two-Level Games," *Public Choice* 89 (1996); Jongryn Mo, "The Logic of Two-Level Games with Endogenous Domestic Coalitions," *Journal of Conflict Resolution* 38, no. 3 (1994); idem, "Domestic Institutions and International Bargaining: The Role of Agent Veto in Two-Level Games," *American Political Science Review* 89, no. 4 (1995); Helen V. Milner and B. Peter Rosendorff, "Trade Negotiations, Information and Domestic Politics: The Role of Domestic Groups," *Economics and Politics* 8, no. 2 (1996); Helen V. Milner, *Interests, Institutions, and Information* (Princeton: Princeton University Press, 1997); Robert Pahre, "Divided Government and International Cooperation in Austria-Hungary, Sweden-Norway, and the European Union," *European Union Politics* 2, no. 2 (2001); Xinyuan Dai, "Dyadic Myth and Monadic Advantage: Conceptualizing the Effect of Democratic Constraints on Trade," *Journal of Theoretical Politics* 18, no. 3 (2006); idem, "Political Regimes and International Trade: The Democratic Difference Revisited," *American Political Science Review* 96, no. 1 (2002); Ahmer Tarar, "International Bargaining with Two-Sided Domestic Constraints," *Journal of Conflict Resolution* 45, no. 3 (2001); idem, "Constituencies and Preferences in International Bargaining," *Journal of Conflict Resolution* 49, no. 3 (2005).

[32] Brian Barry, "Is It Better to Be Powerful or Lucky?" in *Democracy and Power* (Oxford: Clarendon Press, 1991); Keith Dowding, "Resources, Power and Systematic Luck: A Response to Barry," *Politics, Philosophy, and Economics* 2, no. 3 (2003).

[33] Tsebelis (fn. 4).

[34] Slapin (fn. 13).

[35] Tsebelis and Yataganas (fn. 14).

vention differed from intergovernmental bargains. Using our data, we can test whether proximity to the median was a greater source of power at the convention, as Tsebelis suggests, or whether the convention outcome mirrored earlier intergovernmental bargains, where it was distance to the status quo that mattered.

To demonstrate how proximity to the status quo and the median should confer power depending on the voting rule, we make several assumptions that are plausible in light of the organization of the convention and our data. First, we assume negotiations consist of many one-dimensional bargaining games. While this is clearly an oversimplification and while in reality issues may have been linked, the way in which the convention was organized helps justify this assumption. The convention consisted of eleven working groups that were charged with writing reports to the Praesidium, the convention's governing body, chaired by Giscard. As with a committee, each working group had jurisdiction over a specific policy area, such as legal personality, the role of national parliaments, defense policy, or social policy. The Praesidium considered these reports and prepared a draft text. Because many of the original proposals were developed in committees with smaller jurisdictions, it is more likely that decisions across issue-areas were independent, especially compared with decisions taken at earlier IGCs. Moreover, from a statistical point of view, we believe that it is useful to retain the largest number of observations possible and to correct for nonindependence across observations.

Second, we assume that all actors are located either at the status quo or to the right of it. In other words, all delegates either prefer the status quo or change in a single direction, either toward further integration or toward more authority for the member states. This is true in our data set for all but one issue regarding the weighting of Council votes.[36] To provide a systematic view of the issues and positions of the delegates, we constructed a standardized questionnaire; we did this by extracting the topics and alternatives of the convention's deliberations by performing document analysis of the Laeken European Council Summit. Among those alternatives we mark for each issue the provisions of the Nice Treaty as the status quo. Finally, we examine a model in which there is always at least one delegate located on the status quo. This is true for twenty-three of the twenty-six survey questions we examine. Working with these assumptions, we demonstrate how voting rules,

[36] On this issue delegates from small states tended to favor voting weights that gave small states more power than they were given by the Nice rules, while large states preferred a system that gave large states more power.

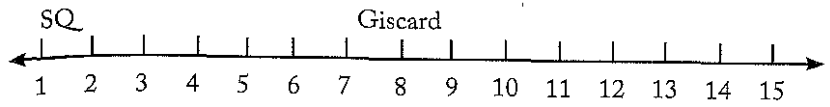

FIGURE 1
SPATIAL MODEL OF CONVENTION VOTING

distance to the status quo, and distance to the median affect the gains actors make.

Figure 1 provides a simple spatial model based on these assumptions We assume there are fifteen actors, represented by equidistant marks on a policy space that ranges from 1, the status quo, to 15. Following Tsebelis, we assume that the median voter, Giscard, is also the agenda setter.

Under unanimity, a delegate's distance to the status quo linearly determines his or her distance to the outcome. This is true simply because the status quo will also be the negotiated outcome. The delegate located on the status quo can veto any change. By contrast, if the voting rule is simple majority, the negotiated outcome will be located at Giscard's position, the median, and a delegate's success at the convention is a linear function of his or her distance to the median. Finally, for some qualified majorities, there is a positive relationship between a delegate's distance to the negotiated outcome and distance to both the status quo and the median. For example, assume that thirteen of fifteen delegates must agree to change the status quo. In Figure 1 the outcome of the bargain would be 4. This is the best that Giscard can propose and still count on the support of the pivotal actor, located at 2. In this case the power of the median, Giscard, is constrained by the voting rule and the position of the status quo, but not as severely as under unanimity.

The graphs in Figure 2 demonstrate the effects of these different voting rules more clearly. Based on the spatial model in Figure 1, we plot an actor's distance from the negotiated outcome as a function of his or her distance from the agenda setter and the status quo for the three voting rules we described above.

These pictures demonstrate the theoretical relationship we expect to find between a delegate's distance to the final negotiated outcome and the delegate's distance to the status quo and the median for each of the three voting rules. If we were to regress distance to the outcome on distance to the status quo under unanimity rule, the OLS coefficient would be one. The regression line would perfectly match the 1:1 theoretical

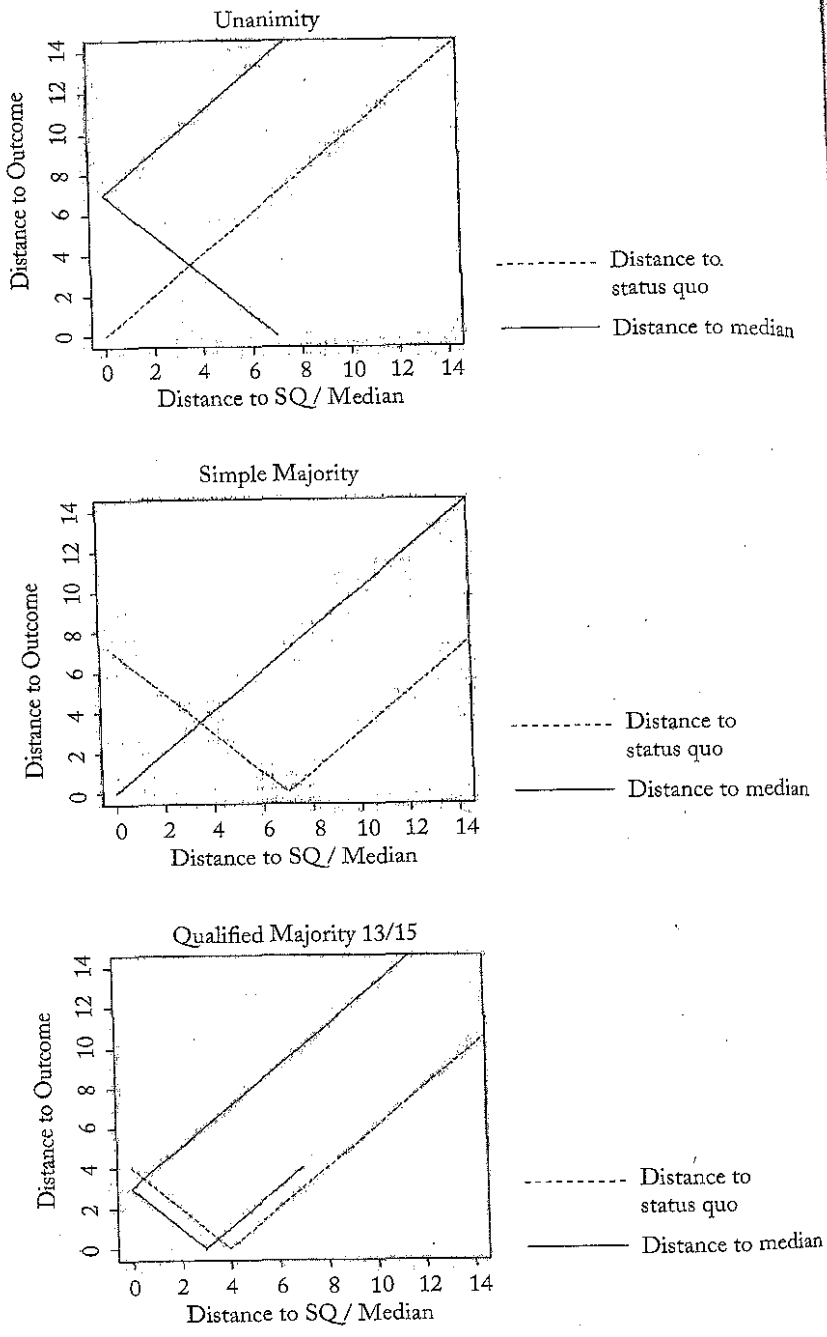

FIGURE 2
DISTANCE TO THE OUTCOME AND VOTING RULES

linear relationship shown in the figure. Likewise, if we were to regress an actor's distance to the outcome on her distance to the median under unanimity rule, the coefficient on distance to the median should be zero. Under unanimity, an actor will move closer to the negotiated outcome as the actor moves away from the median in the direction of the status quo, but the actor will move farther from the negotiated outcome as the actor moves away from the median in the other direction.

The figure demonstrates that the exact opposite is true when the voting rule is simple majority. Here we would expect the coefficient on the distance to the median to be one and the coefficient on distance to the status quo to be zero. Under simple majority rule the position of the median prevails; therefore, as actors move farther from the median in either direction, they will also be farther from the outcome. As actors move away from the status quo, they will first move closer to the position of the median and thus toward the outcome, but once they cross over the position of the median, they will begin moving away from both the median and the outcome.

Finally, under qualified majority, the coefficients on both variables should be positive but less than one. If we were to fit a regression line to either the theoretical relationship between the outcome and status quo or the outcome and the median, the coefficient on the regression line would be less than one because the OLS fit would be affected by the segment of the theoretical relationship with a negative slope.

We can use these results derived from theory to determine the level of consensus needed to change the status quo at the convention. In our regression, as the coefficient on the distance to the median approaches one and the distance to the status quo nears zero, we argue that this provides evidence that the implicit level of consensus was simple majority. Likewise, as the coefficient on the distance to the status quo approaches one and the distance to the median nears zero, we conclude that implicit level of consensus was simple majority. Finally if both coefficients are positive and close to the same magnitude, this is evidence that Giscard looked for "qualified consensus," something less than unanimity but more than simple majority.

These theoretical results, however, are only independent of actors' characteristics when their positions are distributed uniformly. Otherwise, the specification of the voting rule depends on the actors' positions and their other potential sources of power discussed in the bargaining literature for which we must control. We first control for a member state's size. Perhaps the most prominent theory of IGC bargaining, Moravcsik's "liberal intergovernmentalism," implicitly asserts that size confers

power.[37] Moravcsik argues that the outcomes of IGC negotiations can be understood by examining the socioeconomic preferences of domestic actors within the EU's three largest member states, Germany, France, and the UK. And on the basis of this theory, he explains the most important EU bargains from Messina to Maastricht. Elsewhere, he and others have expanded this type of explanation to the Treaty of Amsterdam[38] and the Constitutional Convention.[39]

A second source of power suggested by the IGC literature is domestic constraints. The logic that domestic ratification constraints can confer power was originally expressed by Schelling.[40] He argued that negotiators may actually benefit from having their hands tied by a skeptical ratification constraint. The reasoning is simple. The constrained negotiator can make both a proposal and a credible threat that if the proposal is not accepted, his or her ratification constraint will scuttle the entire treaty. More recently, Putnam reignited interest in this idea by suggesting that international bargains can be conceived as two-level games, with negotiators bargaining at one level, while their ratification constraints constitute the second level.[41] Putnam's concept of two-level games has spawned a great deal of formal research examining exactly how and when domestic constraints matter.[42] Many early tests of these formal theories were conducted primarily through case studies and qualitative research.[43] More recently, however, researchers have begun to test these models in quantitative studies, all of which have focused on IGCs.[44] The early empirical results suggest that domestic constraints are in fact a source of power at IGCs.

[37] Moravcsik (fn. 6).
[38] Moravcsik and Nicolaidis (fn. 24).
[39] Magnette and Nicolaidis (fn. 24).
[40] Thomas Schelling, *The Strategy of Conflict* (Cambridge: Harvard University Press, 1960).
[41] Robert Putnam, "Diplomacy and Domestic Politics: The Logic of Two-Level Games," *International Organization* 42, no. 3 (1988).
[42] See Dai (fn. 31, 2002); Iida (fn. 31, 1993, 1996); Thomas Hammond and Brandon C. Prins, "The Impact of Domestic Institutions on International Negotiations: A Taxonomy of Results for Complete-Information Spatial Models" (Paper presented at the annual meeting of the American Political Science Association, Atlanta, Ga., September 2–5, 1999); Mo (fn. 31, 1994, 1995); Milner and Rosendorff (fn. 31); Helen Milner and B. Peter Rosendorff, "Democratic Politics and International Trade Negotiations: Elections and Divided Government as Constraints on Trade Liberalization," *Journal of Conflict Resolution* 41, no.1 (1997); Robert Pahre, "Endogenous Domestic Institutions in Two-Level Games and Parliamentary Oversight of the European Union," *Journal of Conflict Resolution* 41, no 1. (1997); Pahre (fn. 31, 2001); Gerald Schneider and Lars-Erik Cederman, "The Change of Tide in Political Cooperation: A Limited Information Model of European Integration," *International Organization* 48, no. 4 (1994); Tarar (fn. 31, 2001, 2005).
[43] Lisa L. Martin and Kathryn Sikkink, "U.S. Policy and Human Rights in Argentina and Guatemala, 1973–1980," in Peter Evans, Harold Jacobson and Robert Putnam, eds., *Double Edged Diplomacy* (Berkeley: University of California Press, 1993); Milner (fn. 31); Putnam (fn. 41).
[44] Hosli (fn. 25); Hug and König (fn. 13); Slapin (fn. 13).

Other literature discusses whether supranational actors, despite lacking traditional sources of strength such as size, domestic constraints, and even a veto, may have power at IGCs. Constructivist literature often supposes that supranational institutions have power at IGCs because they are able to reshape the preferences of other actors.[45] Hix finds that the European Parliament was a constitutional agenda setter at the Amsterdam IGC.[46] Unhappy with the Maastricht bargain, the EP was able to alter the Maastricht rules to its advantage. The Amsterdam IGC simply formalized a change that the EP had already made earlier. This, however, is not the same as having power at the bargaining table. Pollack has examined whether supranational actors had formal or informal agenda-setting powers at the Amsterdam negotiations and finds little evidence of either.[47] We examine whether delegates representing supranational actors win or lose more often in comparison with other delegates.

Because our data contain the positions of individual delegates to the convention, we can also try to tackle methodological questions previously unexplored in the literature on European bargains. There is a significant literature in the IR field that examines the appropriateness of the unitary rational actor assumption.[48] Achen argues that the state can always be treated as a unitary rational actor, giving the examples of the Berlin airlift, Cuban blockades, and the Persian Gulf War.[49] Hug suggests that while this is probably true in international crisis situations, it may not hold in more typical bargaining scenarios.[50] He argues that the recent influx of spatial models in the bargaining literature on the EU[51]

[45] Falkner (fn. 26).
[46] Hix (fn. 26).
[47] Mark Pollack, "Delegation, Agency and Agenda Setting in the Treaty of Amsterdam," *European Integration Online Papers (EIOP)* 3, no.6 (1999), http://eiop.or.at/eiop/texte/1999-006a.htm.
[48] Graham T. Allison, *The Essence of Decision: Explaining the Cuban Missile Crisis* (New York: Harper Collins, 1971); Christopher H. Achen, "A State without Bureaucratic Politics Is Representable as a Unitary Rational Actor" (Paper presented at the annual meeting of the American Political Science Association, Washington, D.C., August 1988); idem, "How Can We Tell a Unitary Rational Actor When We See One?" (Paper presented at the annual meeting of the Midwest Political Science Association, Chicago, April 1995); Lars-Erik Cederman, "Unpacking the National Interest: An Analysis of Preference Aggregation in Ordinal Games," in P. Allen and C. Schmidt, eds., *Game Theory and International Relations* (Aldershot, U.K.: Elgar, 1994); George W. Downs and David M. Rocke, *Tacit Bargaining, Arms Races and Arms Control* (Ann Arbor: University of Michigan Press, 1990); Simon Hug, "Nonunitary Actors in Spatial Models: How Far Is Far in Foreign Policy," *Journal of Conflict Resolution* 43, no. 4 (1999).
[49] Achen (fn. 48, 1995).
[50] Hug (fn. 48).
[51] Bruce Bueno de Mesquita and Franz Stokman, eds., *European Community Decision Making: Models, Applications and Comparison* (New Haven: Yale University Press, 1994); Christophe Crombez, "Legislative Procedures in the European Community," *British Journal of Political Science* 26, no. 2 (1996); idem, "Policy Making and Commission Appointment in the European Union," *Aussenwirtshaft*

and in the international relations literature more generally[52] should lead researchers to consider the exact assumptions of their modeling techniques. When policy is unidimensional, it is easy to represent a state as a unitary actor using Black's median voter theorem.[53] However, in multiple dimensions, a median voter exists only under extremely stark conditions.[54] While some modelers have been careful to examine the process of preference aggregation within collective international actors,[55] others have simply assumed that states are unitary rational actors, even in multidimensional spaces where no median voter exists.[56] Hug recommends that modelers should represent collective actors in multidimensional space using the yolk.[57] Instead of using multidimensional solution concepts, we can actually test whether delegates are stronger negotiators when they are part of a unified member state bargaining team.

This issue is of particular importance with respect to the Laeken Convention. Although analyses of IGCs have tended not to treat member states as unitary actors, they have considered member state bargaining teams as unitary actors.[58] However, Tsebelis, in his analysis of Giscard's agenda-setting power at Laeken, assumes that delegates' preferences over outcomes are determined more by their institutional affiliation than by their member state affiliation.[59] He argues, for example, that national parliamentarians are more skeptical of the constitution than are members of government. Moreover, he suggests that this preference alignment based on institutional affiliation is crucial for understanding Giscard's

52, no. 1–2 (1997a); idem, "The Co-decision Procedure in the European Union," *Legislative Studies Quarterly* 22, no. 1 (1997b); Peter Moser, "The European Parliament as a Conditional Agenda-Setter: What Are the Conditions? A Critique of Tsebelis," *American Political Science Review* 90, no. 4 (1996); Bernard Steunenberg, "Decision Making under Different Institutional Arrangements: Legislation by the European Community," *Journal of Institutional and Theoretical Economics* 150, no. 4 (1994); George Tsebelis, "The Power of the European Parliament as a Conditional Agenda-setter," *American Political Science Review* 88, no. 1 (1994); idem, "Conditional Agenda Setting and Decision Making inside the European Parliament," *Journal of Legislative Studies* 1 (1995); idem, "Maastricht and the Democratic Deficit," *Aussenwirtschaft* 52, no. 1–2 (1997).

[52] Frederick W. Mayer, "Managing Domestic Differences in International Negotiations: The Strategic Use of Internal Side-Payments," *International Organization* 46, no. 4 (1992); Clifton T. Morgan, "A Spatial Model of Crisis Bargaining," *International Studies Quarterly* 28, no. 4 (1984); idem, "Power, Resolve and Bargaining in International Crises: A Spatial Theory," *International Interactions* 15, no. 3 (1990); idem, *Untying the Knot of War* (Ann Arbor: University of Michigan Press, 1994); James D. Morrow, "A Spatial Model of International Conflict," *American Political Science Review* 80, no. 4 (1986); Milner (fn. 31).

[53] Duncan Black, *Theory of Committees and Elections* (Cambridge: Cambridge University Press, 1958).

[54] Charles Plott, "A Notion of Equilibrium and Its Possibility under Majority Rule," *American Economic Review* 57, no. 4 (1967).

[55] For example, Mayer (fn. 52); Milner (fn. 31); Tsebelis (fn. 51, 1995).

[56] Morgan (fn. 52, 1984, 1990, 1994); Morrow (fn. 52).

[57] Hug (fn. 48).

[58] For example, Schneider and Cederman (fn. 42).

[59] Tsebelis (fn. 4).

agenda-setting power because it ensured that he was the median voter in the convention's Praesidium, the body largely responsible for drafting the treaty because of its gatekeeping powers and its ability to control the amendment process. This analysis does not assume that delegates act as collective member state bargaining teams. We can use our data to determine the extent to which institutional affiliation matters.

Hypotheses

After the summary of our model and the literature, we derive several hypotheses about voting rules at the convention and other potential sources of bargaining strength. We then test them to try to understand why some delegates came closer than others to realizing their preferences during negotiations.

1. *The voting rule at the convention was unanimity.* Under unanimity we would expect a delegate's distance to the status quo to completely explain his or her distance to the bargaining solution.

2. *The voting rule is simple majority.* Under simple majority voting, the position of the median, presumably Giscard, would also be the bargaining outcome. A delegate's distance to the median would linearly predict his or her distance to the bargaining outcome.

3. *The voting rule is consensus.* By consensus we mean some qualified majority rule, higher than simple majority but lower than unanimity. If this is the case, there ought to be a positive linear relationship between a delegate's distance to the outcome and the distance to both the median and the status quo; however, the regression coefficients should be less than one.

4. *Delegates from large member states have a stronger bargaining position.* EU literature on bargaining has often focused on size as a source of strength.[60] Large states contribute more to the EU than do small states in terms of both money and citizens, perhaps providing the delegations from the larger states with a bargaining edge at the convention.

5. *Delegates from more domestically constrained states win more often.* Literature on two-level games has examined whether domestic constraints help or hurt negotiators. We test whether delegates from more domestically constrained states win or lose more often at the convention.

6. *Unified bargaining teams win more often.* If member state bargaining teams are important, more cohesive teams may be more powerful. When there is less infighting within a delegation, the delegation ought to perform better. If, however, there is a wide array of opinions within a member state team, delegates may try to undermine their fellow team members and thereby hurt the team as a whole.

[60] Moravcsik (fn. 6); Moravcsik and Nicolaidis (fn. 24).

7. *Institutional positions help delegates win more often.* This suggests that a delegate's institutional affiliation rather than member state citizenship is a source of power. Here we can test, for example, whether belonging to a supranational organization is a source of strength. We also examine whether delegates from member state governments or member state parliaments perform better. In other words, this hypothesis suggests that a delegate's institutional position within the EU or his or her member state matters more than his or her nationality.

The Data

Before beginning the analysis, we describe the data and the data-collection process. Our data consist of survey responses from the Laeken delegates gathered before the adoption of the Laeken proposal in June 2004.[61] In total, the convention comprised 207 members and 13 observers; only 66 members were allowed to "vote" on the final document, however. More accurately, since no voting ever occurred, the remaining 154 delegates could not block a consensus arising among the 66 "voting" members. These members included the convention president, the two vice presidents, 15 representatives of the member state governments (one per EU15 member state), 30 representatives from member state parliaments (2 per EU15 member state), 16 members of the European Parliament, and 2 members of the European Commission. The delegates from the thirteen accession countries were allowed to participate but could not block consensus.

While the data set includes responses from 90 of the 207 convention participants, it covers the almost complete set of voting members and institutional positions represented at Laeken. It contains at least one response from each of the EU15 member states and thirteen accession countries. In addition, it covers at least one response from each EU15 government and parliament, as well as from the EP and the Commission. In most cases the data set contains responses for both parliamentary representatives attending the convention from the EU15 member states. With the exceptions of Cyprus and Turkey, the data set covers both governmental and parliamentary positions for the accession countries as well. Thus the ninety survey respondents in the data set cover 84.5 percent of institutional positions represented at Laeken.[62]

[61] For a complete description of the data collection process, see König (fn. 2).

[62] For the governments of the EU15 member states, the proportion is 88.9 percent, and for the accession country governments it is 79.5 percent. And 92.9 percent of the countries include one answer from a governmental and a parliamentarian delegate, which means that the data set contains the two institutional positions from all EU15 member states and from 84.6 percent of the accession countries. Furthermore, the data cover 50 percent of the Commission's positions and 81.2 percent of the positions of the European Parliament, including members from all political parties.

The survey respondents answered questions on twenty-six key reform topics. The questions were formulated after the survey team identified topics of debate and alternatives facing convention deliberations through document analysis of the Laeken European Council Summit.[63] Broadly, the reform topics fall into six categories: delimitation of competences, common foreign and security policy, institutional balance, EU decision making, and the form of the recommendation by the convention. Many of the topics were broken down into more than one question.

Our analysis examines the responses of all ninety survey respondents on the questions for which we know both the positions of the respondents and the position of the negotiated outcome. All responses were placed on a scale from 0 to 1. For nine questions delegates had a choice between the status quo and one alternative. For an additional nine questions respondents could choose between the status quo and two alternatives. There were six questions for which the delegates could choose between the status quo and three alternatives. And for two of the questions delegates could choose between the status quo and four alternatives.

As in other surveys, some respondents left questions blank. Of the 2340 possible responses from the sample of 90 delegates, 138 responses (approximately 6 percent) were left blank. It is possible that this very low number of missing values is attributable to our having translated the cover letter into all EU languages and the questionnaire into the three main languages: English, French, and German. To correct for missing positions, we assume indifference. This means that we assume that respondents left questions blank because they were completely indifferent between the status quo and the proposed change. To capture this, we replace missing values with the position midway between the status quo and the proposed change.

To provide a better idea of what the data look like before running the analysis, we examine how our data capture the change that took place at the convention. The convention outcome was different from the status quo for fifteen of our twenty-six questions, suggesting that the delegates were able make some change on quite a number of issues. However the average change across all issues from the status quo on our 0–1 scale was not particularly high, only 0.37. The average change on the issues that did change was 0.67. This last figure may in fact in-

[63] Construct validity of the questions has been confirmed by the scientific adviser of a German Convention member, Professor Dr. Oppermann, and the high response rate of the interviewees.

flate the overall change because of the several questions where delegates could offer only a binary response. This suggests that while in general the convention made some changes, the alterations were not as ambitious as some may have wanted.

Finally, before moving to the analysis, we chose two representative issues to explore in more detail. The first issue involves expanding qualified majority voting to the common foreign and security policy (CFSP). The second examines the qualified majority voting rule in the Council. We chose these issues because they represent areas where some change occurred and where the changes were typical of the type of change we find on other issues. Second, these issues represent two important types of issues discussed at the convention—expanding qualified majority voting and making the EU's institutions more efficient.

Regarding the expansion of QMV to the CFSP, respondents were asked, "How should the Council vote regarding common foreign and security policy?" and were given the following options: "Only unanimous votes may pass (0), Some votes should pass on a qualified majority (0.3), Votes should pass on a qualified majority except for security and defense matters where unanimity should continue to be required (0.6), and finally, All votes should be passed by QMV (1)." With respect to the provisions of the Nice Treaty, the status quo in this case was 0, no qualified majority voting, and the outcome was 0.3, some qualified majority voting. The median position was also 0.3. In our data eleven delegates preferred the status quo, thirty-seven preferred the median position, and forty-one preferred more qualified majority voting than was eventually allowed for in the treaty.

To determine delegate preferences for a qualified majority rule in the Council, delegates were asked the following: "The qualified majority in the Council is currently set at 71 percent of weighted votes. According to the Nice Treaty, this number will be raised to 73 percent once more countries join. Which principle of qualified majority do you favor?" They were given the following choices: "The percentage required for a qualified majority should be kept as it is (0), The percentage required for a qualified majority should be lowered (0.3), Some votes should also be passed with an absolute (that is, unweighted) majority (0.6), Some votes should be passed by simple double majority (1)." Again the status quo was 0 and the outcome was 0.3. However, on this issue fifty-two delegates preferred the status quo to any change at all and no one preferred a simple double majority. In this instance the median position and the position of the status quo are the same, meaning this is not a good issue for determining whether the proximity to the status quo or the median matters more; nevertheless, it demonstrates that change could occur at the convention even when there was substantial opposition to change.[64] It also might suggest that Giscard, who had tremendous control over the drafting of the institutional rules, may have preferred a simpler voting rule than even the median voter on the convention floor.

Research Design and Analysis

We examine two different models to test our hypotheses. In both models our unit of analysis is delegate response. The first model uses OLS, and the dependent variable is a delegate's absolute distance to each negotiated outcome. The second model is a probit, where the dependent variable is coded one if the bargaining outcome exactly matches a delegate's preference and zero otherwise. We run the probit as check of our OLS model because, due to the nature of the data, the reported distances to the negotiated outcomes may be very noisy estimates of the true distances. Each respondent was given only a limited number of responses to each question, so a response may reflect not his or her true preference but rather the available response closest to his or her true preference. By collapsing these distances to a simple dummy, the probit model allows us to make fewer assumptions about the quality of the data.[65]

To test our competing hypotheses, we first construct two variables that capture a delegate's distance to the status quo and the distance to the median. These will allow us to estimate the voting rule used at the convention. To provide a better understanding of what these variables look like, we present histograms of our dependent variable and the distance to the status quo and the distance to the median. These are presented in Figure 3.

As we would expect, the histogram of the distance to the outcome has a right skew, implying that more delegates are relatively close to the outcome. However, it is interesting to note that approximately 20 percent of delegate responses are relatively far from the final outcome, suggesting that unanimity was probably not the rule. Likewise, distance to the median is right skewed with approximately 60 percent of responses relatively close to the position of the median. However, the distribution of distances from the status quo is more uniform, suggesting that while

[64] Even though for some issues the status quo and median are the same, the correlation between our distance to the status quo variable and distance to the median variable is not particularly high ($r=0.27$).

[65] In addition, we run a second probit model where we code the dependent variable one if the delegate prefers change and change occurs and zero if the delegate prefers the status quo and the status quo remains. Because this model is very similar to the first probit model, we report the one model.

some delegates wished to maintain the present arrangements, many others wanted to see change.

We also include a series of control variables based on the IGC bargaining literature. First, we include the natural log of each member state's population to test whether member state size confers power as intergovernmentalists suggest.[66] On this variable, each delegate receives the logged value of his or her home country's population. By using the log of population, we imply that size matters at a decreasing rate. To test whether negotiators from more cohesive member states are more effective than negotiators from less cohesive member states, we include the variable *Range*, which we calculate as the distance from the most prointegration delegate to the least prointegration delegate for each member state for every response. We then examine four dummy variables to take account of a delegate's institutional position: *European Parliament, Commission, Accession Country Government,* and *Accession Country Parliament*, leaving out a fifth category, *Member State Government,* to avoid perfect collinearity. These variables have been mentioned in the literature without further theoretical discussion of their effects. However, the findings might offer insights about their impact on the following stages of the constitution-building process. Governmental delegates are decisive for the summit negotiations, while parliamentary actors must ratify the summit outcome. The findings will also allow us to see whether delegates of the EU15 member states were more powerful than their counterparts from accession countries.

A delegate's distance to the outcome may reflect the saliency of that issue for the delegate, in addition to the delegate's position and member state and institutional affiliation. Delegates may care more about some issues than others. When an issue is salient, the stakes for the delegate increase. We include a measure of saliency to control for this. Survey respondents were asked to assess the importance of each issue. They weighed the issues from 1 (not very important) to 5 (very important). We determine the mean and standard deviation of salience scores across all issues for each delegate and then transform these saliency scores into z-scores by delegate. A negative z-score implies that the delegate thought that a particular issue was less important than the average issue, while a positive z-score implies that the delegate attached greater than average weight to the issue. We use the z-score rather than the absolute measure because even though some delegates may think that all issues are very important compared to another delegate, each

[66] Population data obtained from Eurostat (August 7, 2002).

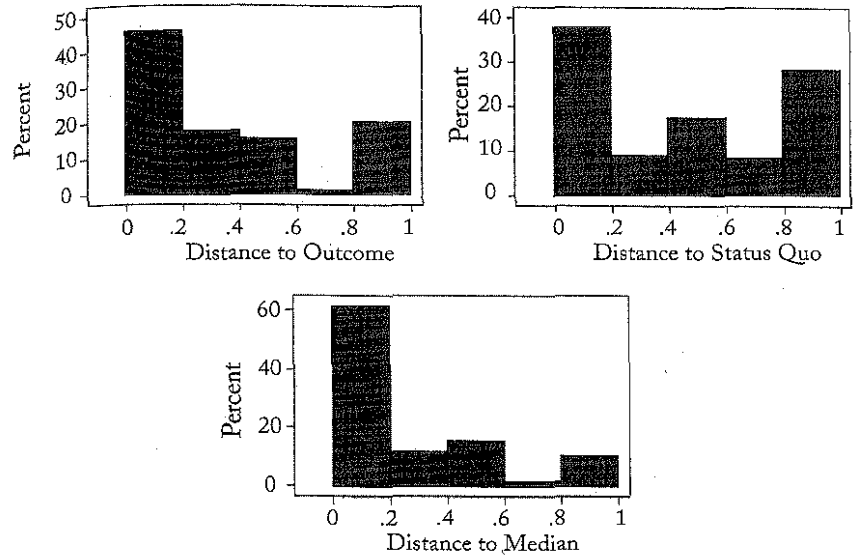

FIGURE 3
HISTOGRAMS OF PRIMARY VARIABLES

delegate, having only a limited amount of bargaining resources, will presumably prefer to spend those resources on issues that he or she deems to be of relatively greater importance.[67]

To capture the difficulty of ratification, we examine each member state's ratification process. As with the population variable, each delegate receives the value that corresponds to his or her home country. This variable has two components, one to capture a member state's institutional requirements and the second to capture political party positions and public opinion. To capture the institutional component, we examine formal parliamentary ratification procedures.[68] Of course, even a member state with a high parliamentary ratification hurdle may have no trouble with ratification if a vast majority of the political parties in parliament and the population support EU integration. To calculate ratification constraints, we examine the parliamentary majority necessary to ratify the treaty and then examine the position of voters us-

[67] Out of 1800 possible saliencies (20 issues multiplied by 90 delegates), 106 are missing—approximately 6 percent. In these few cases, we replace the delegate's missing saliency with his or her average saliency across the remaining issues.

[68] For a list of these ratification procedures by member state, see Appendix 2.

ing Eurobarometer surveys 60.1 and CCEB 2003.4, both of which were administered at the time the convention was winding down in spring 2003.[69] We match questions from the Eurobarometer surveys to the survey questions in our data set. Then we examine the preference of the Eurobarometer respondent corresponding to the parliamentary pivot for each question in each member state. For example, if a member state's constitution requires a two-thirds majority in parliament to ratify the treaty, we examine the preference of the two-thirds majority pivot among Eurobarometer respondents within that country for that question. This approach makes several strong assumptions. First, we assume that political party positions reflect partisans, perhaps a dubious assumption given the outcome of the French and Dutch referendums, and second, we assume that electoral systems are perfectly proportional. While this may appear to be a drawback to using Eurobarometer data to estimate ratification constraints, there is also an advantage to using this measure. It helps capture the position of another possible ratification hurdle—the public, which in many countries was asked or required to vote in referendums. Perhaps our measure also reflects the parliamentarians' reaction to voters' attitudes, which they can extract from opinion poll results.

Last, we control for overall support for a specific question. If an issue has a higher level of general support, it is more likely to be included in the draft constitution, all else equal, which in turn will affect an individual delegate's distance to the treaty outcome. We examine the ratio of delegates who for each question prefer the status quo to change. Using this variable is similar to including issue fixed effects, but it provides further evidence about what drives a delegate's distance to the outcome.

Table 1 reports summary statistics for our variables, and Table 2 reports the findings of both our models. Because a delegate's distance from the outcome on one issue is not likely to be independent from his or her distance on the next issue, we run both models with robust standard errors.[70] Both the OLS and probit models show near identical results. For simplicity, we interpret only the OLS results.

First, we find that a delegate's distance to the status quo and distance to the median both positively explain a delegate's distance to the negotiated outcome. Delegates farther from the status quo and farther from the median perform worse at the bargaining table. Both coefficients are statistically significant, less than one and greater than zero. Interestingly, the coefficients are also nearly identical. Moving away from the status quo hurts a delegate just as much as moving away from the median. This indicates that the voting rule at the convention was most likely consensus, and not unanimity, as at previous IGCs, or simple majority, as Tsebelis suggests.[71] While Giscard, the convention's most likely median voter, did not receive his ideal point all the time, proximity to Giscard's position was in fact an indicator of bargaining success. However, proximity to the status quo also appears to have been a source of bargaining strength, suggesting that Giscard's power was at least attenuated by the need to cater to desires of status quo–biased delegates.

Surprisingly, member state population does not predict a delegate's success at the negotiating table. The coefficient on the logged population is very small and not statistically significant. Delegates from large states do not come any closer to their desired outcome than do delegates from small states. This may be especially surprising, since many delegates from small states were also from accession countries and could not formally block consensus. Saliency, by contrast, strongly predicts a delegate's distance to the outcome. As expected, when delegates have more at stake, their distance to the negotiated outcome decreases. This suggests that they are more willing to spend bargaining resources to win on issues of importance to them.

Institutional affiliation does not seem to affect a delegate's performance. None of the five dummy variables capturing delegates' institutional positions have a substantive or statistically significant effect on how often delegates win. The fact that the European Parliament and Commission dummies are small and not statistically significant leads to the impression that membership in a supranational body provides no additional power. Of course, it does not appear to handicap delegates either. Last, it is again surprising that delegates from accession country parliaments and governments did not perform worse than delegates from EU15 member states.

The last two control variables, government range and ratification constraints, are statistically significant in the OLS model; however, their substantive effect is not large compared with other variables. Because these variables range from zero to one, just like the distance to status quo and median variables, we can directly compare the magnitude of these coefficients. The effects of distance to the status quo and the median are approximately five times larger than the effects of the ratifica-

[69] EB60.1 covers EU15 member states while CCEB 2003.4 asks respondents similar questions in the accession countries.

[70] We have also run the OLS model with panel corrected standard errors, which produces very similar results. In addition, we have run the models including both question and delegate fixed effects, and again the results do not change.

[71] Tsebelis (fn. 4).

TABLE 1
VARIABLE SUMMARIES

Variable	*Mean*	*Std. Dev.*	*Minimum*	*Maximum*
Dependent Variables				
Distance to outcome	0.34	0.38	0.00	1.00
Win	0.44	0.50	0.00	1.00
Independent Variables				
Distance to median	0.23	0.33	0.00	1.00
Distance to status quo	0.44	0.40	0.00	1.00
Log population	2.33	1.48	−0.94	4.41
Saliency	−0.01	0.94	−4.13	4.36
National parliament dummy	0.29	0.45	0.00	1.00
European Parliament dummy	0.14	0.35	0.00	1.00
Commission dummy	0.02	0.15	0.00	1.00
Accession government dummy	0.14	0.35	0.00	1.00
Accession parliament dummy	0.23	0.42	0.00	1.00
Ratification constraint	0.72	0.34	0.00	1.00
Government range	0.44	0.39	0.00	1.00
Ratio of status quo to change	1.58	2.75	0.00	11.86

tion constraint and seven times larger than the effects of government range in predicting a delegate's distance to the outcome. Moreover, the government range variable is not statistically significant in the probit model. This suggests that delegates from cohesive member state bargaining teams did not seem to perform much more strongly than did delegates from less cohesive member states. Delegate, and not member state bargaining team, appears to be the more appropriate unit of analysis.

Likewise, concerns about ratification seem to have played only a minor role at the convention. While this may be due to the uncertainty in our measurement of ratification restraints, it could also reflect that, because of the special nature of the convention, delegates were truly unconcerned about ratification. Delegates were constructing a document that they knew would be subjected to scrutiny at an IGC before it could be ratified. Therefore, it was not clear that the constitutional draft they were writing would ever reach the ratification stage. During the Italian EU presidency following the convention, it appeared that the whole constitution project would fail. Spain and Poland blocked the adoption of the text in December 2003. It was only after the surprising electoral defeat of the Spanish conservative government following the Madrid terrorist

TABLE 2
REGRESSION RESULTS[a]

Dependent Variable	*Model 1: OLS Distance to Outcome*		*Model 2: Probit Win*	
	Coefficients	*p*	*Coefficients*	*p*
Distance to median	0.349	0.000	−1.072	0.000
	(0.025)		(0.106)	
Distance to status quo	0.343	0.000	−1.043	0.000
	(0.022)		(0.082)	
Log population	0.002	0.702	−0.029	0.178
	(0.005)		(0.022)	
Saliency	−0.035	0.000	0.118	0.000
	(0.007)		(0.030)	
National parliament dummy	−0.001	0.944	−0.030	0.728
	(0.021)		(0.086)	
European Parliament dummy	−0.015	0.548	0.072	0.480
	(0.025)		(0.102)	
Commission dummy	−0.075	0.104	0.361	0.061
	(0.046)		(0.193)	
Accession government dummy	0.006	0.816	−0.024	0.812
	(0.024)		(0.101)	
Accession parliament dummy	0.018	0.431	−0.089	0.336
	(0.022)		(0.093)	
Ratification constraint	0.077	0.000	0.206	0.019
	(0.019)		(0.088)	
Range	0.053	0.000	0.058	0.462
	(0.020)		(0.078)	
Ratio of status quo to change	0.021	0.000	0.015	0.224
	(0.004)		(0.012)	
Constant	−0.008	0.751	0.397	0.001
	(0.025)		(0.115)	
	r2=0.29		log likelihood= 1374.535	
	N=2340		N=2340	

[a]Robust standard errors in parentheses.

attacks that Poland could no longer withstand the pressure on its own, and the Irish presidency presented a compromise that was accepted in June 2004. Moreover, if delegates viewed themselves as individuals and not as representatives of their respective member states, ratification constraints would have no meaning. Finally, some countries announced popular votes after the adoption of the proposal, meaning delegates themselves were highly uncertain what the ratification restraints would be. This may also help explain the ratification difficulties the document has experi-

enced since. Given the outcome of the French and Dutch referendums, however, delegates probably should have paid more attention to the ratification processes during the convention, or member states should have clarified their ratification hurdles before adopting a text.

The substantive importance of the variables is difficult to interpret because the units of many of the variables do not really have any intuitive meaning. To help demonstrate the substantive effects of some of the most important variables, we present partial regression plots in Figure 4.

This figure reinforces what we have already described. A delegate's distance both to the median and to the status quo explain the distance to outcome quite well. While the ratification and population variables have the signs we would expect, neither has a detectable substantive effect on a delegate's distance to the outcome. Certainly both effects are much weaker than the two distance variables, and only the ratification constraint variable is statistically significant.

Discussion and Conclusion

Our analysis has demonstrated that variables associated with a one-dimensional spatial model explain the Laeken Convention negotiations quite well. Moreover, we showed that the voting rule at the constitutional convention was neither a simple majority nor unanimity. Instead, the convention aimed to achieve a consensus. While this means that the median voter, presumably Giscard, did not exactly receive his preference, it is also likely that the new convention format—in terms of composition and organization—led to a more integrationist bargaining outcome than what could have been accomplished at a traditional intergovernmental conference. At the same time, this may also explain the difficulty the document faced at the ratification stage. Convention rules allowed negotiators to ignore positions closer to the status quo. Member state governments, however, can hardly disregard similar preferences held by domestic actors at ratification time.

Our control variables also reveal some other interesting findings. Contrary to intergovernmental theories of treaty bargaining, member state size does not appear to confer strength to convention negotiators. This finding corroborates recent findings on traditional IGCs and should not be surprising, as much literature has demonstrated that size and strength alone are not enough to secure one's positions. Other factors, such as the location of positions, may matter much more.[72]

[72] Geoffrey Garrett and George Tsebelis, "An Institutional Critique of Intergovernmentalism," *International Organization* 50, no. 2 (1996).

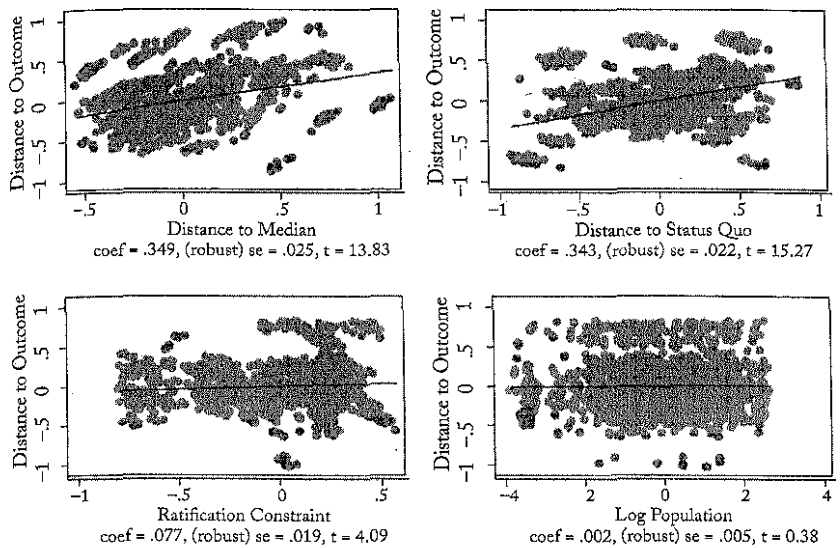

Figure 4
Partial Regression Plots for Key Variables

Our hypothesis that domestic constraints confer bargaining strength finds only moderate support in the data on the Laeken Convention. Higher potential ratification hurdles at home have only a small affect on a delegate's ability to realize his or her position. Although recent literature on two-level games has suggested that ratification constraints are a source of power at IGCs,[73] our findings reveal that the effectiveness of this source of power may be contingent upon the bargaining environment. Given the nature of the convention and the uncertainty surrounding the ratification procedures, this is also not surprising. As mentioned above, delegates were unsure when, or even whether, the Laeken document would face ratification, and they did not know for certain what the ratification requirements would be. This lack of concern or information about ratification procedures may also help to explain the recent negative popular votes in France and the Netherlands.

We also find little support in the data for the hypothesis that delegates from unified bargaining teams win more often. The positions of one's fellow nationals do not seem to affect a delegate's ability to

[73] Hosli (fn. 25); Hug and König (fn. 13); Slapin (fn. 13).

perform at the bargaining table. Finally, we find no support for the hypothesis that delegates' institutional positions influence their ability to win. Perhaps most surprisingly, delegates from accession country governments and parliaments did not lose more often than other delegates, despite the fact that they held no voting rights at the convention. Realizing that these new accession countries would need to agree to the eventual constitution, Giscard and the other delegates may have tried to treat everyone equally.

Our analysis has empirically corroborated theoretical arguments about sources of power related to spatial models, distance to the status quo, and the median voter. Moreover, the results of this study highlight some ways in which the convention is different from previous IGCs. For example, achieving change at the convention only required consensus, not unanimity. Ratification constraints appear to have had less effect on the convention negotiations than on earlier IGCs. Finally, this work corroborates other studies of IGCs that find that size does not always imply strength, that proximity to the status quo does enhance one's bargaining position, and that institutional position, such as being a member of the Commission or European Parliament, does not enhance one's bargaining power.

In our view, the format of the Laeken Convention may provide the EU with a new and more effective method for reforming its institutional framework. In June 2004, with minor revisions of the Council's voting rule, the twenty-five governments adopted the draft text of a constitutional treaty that had been prepared by the convention. Because of the importance of the changes already made at Laeken, we recommend that EU scholars pay attention to new bargaining formats when examining summit negotiations and outcomes. We investigated how the Laeken outcome compares with that of previous IGCs. The resulting constitution has fared poorly during the ratification stage, however, and it appears unlikely to be implemented in its current form after the defeats in France and the Netherlands.[74] Perhaps, because delegates to the convention were less concerned with ratification, the Laeken format has made ratification failure more likely. This will have to be investigated in future research focusing on the ratification process.

[74] Simon Hug and Tobias Schulz, "Using Mass Survey to Infer Political Positions," *European Union Politics* 6, no. 3 (2005).

Appendix 1

The following questions were used from Eurobarometer (EB) 60.1 and Candidate Countries Eurobarometer (CCEB) 2003.4.

CCEB	*EB*	*Question*
q42.1	Q28A01	Decision making: defense
q42.2	Q28A02	Decision making: protection of the environment
q42.3	Q28A03	Decision making: currency
q42.4	Q28A04	Decision making: humanitarian aid
q42.5	Q28A05	Decision making: health and social welfare
q42.6	Q28A06	Decision making: basic rules for broadcasting and press
q42.7	Q28A07	Decision making: the right against poverty, social exclusion
q42.8	Q28A08	Decision making: the right against unemployment
q42.9	Q28A09	Decision making: agriculture and fishing policy
q42.10	Q28A10	Decision making: supporting regions that are experiencing economic difficulties
q42.11	Q28A11	Decision making: education
q42.12	Q28A12	Decision making: scientific and technological research
q42.13	Q28A13	Decision making: information about the European Union, its policies and institutions
q42.14	Q28A14	Decision making: foreign policy toward countries outside the European Union
q42.15	Q28A15	Decision making: cultural policy
q43.1	Q28B01	Decision making: immigration policy
q43.2	Q28B02	Decision making: rules for political asylum
q43.3	Q28B03	Decision making: the right against organized crime
q43.4	Q28B04	Decision making: police
q43.5	Q28B05	Decision making: justice
q43.6	Q28B06	Decision making: accepting refugees
q43.7	Q28B07	Decision making: juvenile crime prevention
q43.8	Q28B08	Decision making: urban crime prevention
q43.9	Q28B09	Decision making: the right against drugs
q43.10	Q28B10	Decision making: the right against trade in and exploitation of human beings
q43.11	Q28B11	Decision making: the right against international terrorism
q43.12	Q28B12	Decision making: tackling the challenges of an aging population
q44.2	Q2902	For or against—one common foreign policy
q44.3	Q2903	For or against—common defense and security policy
Q44.5	Q2905	For or against—subsidiarity
q51.1	Q2908	After enlargement, there should continue to be at least one commissioner from each member state
q45.2	Q3202	When an international crisis occurs, EU member states should agree a common position
q45.3	Q3203	The EU should have its own foreign minister, who can be the spokesperson for a common EU position
q45.10	Q3210	Agree ot not—the EU should have a common immigration policy toward people from outside the EU
q45.11	Q3211	Agree ot not—the EU should have a common asylum policy toward asylum seekers

APPENDIX 1 *cont.*

CCEB	*EB*	*Question*
q45b	Q33	In your opinion, should decisions concerning European defense policy be taken by national government, NATO, or EU?
q52	Q50	The president of the European Commission should be [nomination/ election]
q53	Q13	For or against EU with a European government responsible to the EP?
q54	Q51	The presidency of the Council is taken by each country in turn, for a period of six months. Do you think that?
q55	Q52	Opinion about the right of veto
q67	Q49	The EU should or should not have a constitution?
Q71.6	Q6606	Election of European Parliament: harmonization of election date and intention to vote

APPENDIX 2

For each member state the pivots were calculated under the assumption that the preference distribution in the national parliaments is proportional to the preference distribution of the voters using the following steps:

1. sorting and recoding all EB question from status quo (=1) to change (=2)
2. identifying the national ratification thresholds
3. identifying the pivotal voter by the respective ratification provision
4. linking the EB question to the convention survey. In the case where more than one question could be considered, we calculated the mean.

Member State	*Parliamentary Ratification Procedure*	
Lithuania (LIT)	Seimas required: simple majority	
Hungary (HUN)	National Assembly required: 2/3 majority	
Slovenia (SLN)	Državni zbor (National Assembly) required: 2/3 majority	
Italy (ITA)	Camera dei Deputati required: simple majority	Senato della Repubblica required: simple majority
Greece (GRE)	required: simple majority	
Slovakia (SLK)	Národná rada (National Council) required: 3/5 majority	
Spain (SPA)	Congreso de los Diputados required: simple majority	Senado required: simple majority
Austria (AUT)	Nationalrat required: 2/3 majority	Bundesrat required: 2/3 majority
Germany (GER)	Bundestag required: 2/3 majority	Bundesrat required: 2/3 majority

APPENDIX 2 *cont.*

Member State	*Parliamentary Ratification Procedure*	
France (FRA)	Congress (joint session of the Assemblée Nationale and the Sénat) required: 3/5 majority in Congress	
The Netherlands (NET)	Eerste Kamer (Senate) required: simple majority	Tweede Kamer (chamber of deputies) required: simple majority
Latvia (LAT)	Saeima required: simple majority	
Cyprus (CYP)	House of Representatives required: simple majority	
Malta (MAL)	required: simple majority	
Luxembourg (LUX)	Chabmre des Députés required: simple majority	
Belgium (BEL)	Chambre / Kamer required: simple majority	Senat / Senaat required: simple majority
Estonia (EST)	Riigikogu required: simple majority	
Finland (FIN)	Eduskunta required: 2/3 majority	
Sweden (SWE)	Riksdagen required: 3/4 majority	
Denmark (DEN)[a]	Folketing required: 5/6 majority *but* simple majority[a]	
Poland (POL)	Sejm required: 2/3 majority	Senate required: 2/3 majority
Portugal (POR)	Assembleia da República required: simple majority	
Ireland (IRE)	Dáil Éireann (House of Representatives) required: simple majority	Seanad Éireann (Senate) required: simple majority
Czech Republic (CZR)	Parlament České republiky required: 3/5 majority	České republiky required: 3/5 majority
United Kingdom (UNK)	House of Commons required: simple majority	House of Lords required: simple majority

[a] In the case of Denmark simple majority was used because it was clear from the beginning that the country would most likely opt for the referendum implying a significantly lower threshold than the five-sixths majority required for parliamentary ratification.

Appendix 3

The Eurobarometer 60.1 (and Candidate Countries Eurobarometer 2003.4) were assigned to the issues of the Convention survey.

	Convention Survey	*Eurobarometer 60.1*
q1a	Monitoring the Division of Jurisdiction	29.05
q2a	Principles to regulate Jurisdiction	29.05
q3a_1	Deleg. of competencies: Foreign	28.01, 28.14, 29.02, 32.02
q3a_2	Deleg. of competencies: Defense & Security	28.01, 28.b.11, 29.03
q3a_3	Deleg. of competencies: Developing Countries	28.a.04
q3a_4	Deleg. of competencies: Human Rights	28.b.02, 28.b.06, 28.b.10
q3a_5	Deleg. of competencies: (Im)migration	28.b.01, 28.b.06, 32.10
q3a_6	Deleg. of competencies: Asylum	28.b.02, 28.b.06, 32.11
q3a_7	Deleg. of competencies: International Security	28.14, 28.b.11, 29.02, 29.03
q3a_8	Deleg. of competencies: Judiciary	28.b.03, 28.b.04, 28.b.05
q3a_9	Deleg. of competencies: Drugs	28.b.07, 28.b.08, 28.b.09
q3a_10	Deleg. of competencies: Social Policy	28.05, 28.07, 28.b.12
q3a_11	Deleg. of competencies: Employee Rights	28.05, 28.07
q3a_12	Deleg. of competencies: Unemployment	28.08
q3a_13	Deleg. of competencies: Economic Policy	all
q3a_14	Deleg. of competencies: Taxes	all
q3a_15	Deleg. of competencies: Farming & Fishing	28.09
q3a_16	Deleg. of competencies: Environment	28.02
q3a_17	Deleg. of competencies: Infrastructure	28.10
q3a_18	Deleg. of competencies: Education	28.11
q3a_19	Deleg. of competencies: Research	28.12
q3a_20	Deleg. of competencies: Health Care	28.05
q3a_21	Deleg. of competencies: Consumer Protection	all
q3a_22	Deleg. of competencies: Traffic & Transportation	all
q3a_23	Deleg. of competencies: Basic Rights of Media	28.06
q3a_24	Deleg. of competencies: Privacy of Data	all
q3a_25	Deleg. of competencies: Industrial Policy	all
q4a	CFSP: future regulation	32.03
q5a	CFSP: necessity for concerted action	29.02, 29.03, 32.02, 33
q6a	CFSP: council voting rule	28.01, 28.14, 52
q7a	Division of power between council & EP	13, 52
q8a	Keep veto right in issues touching sovereignty	52
q9a	Council: weighting of votes	52
q10a	Council: QMV threshold	52
q11a	EP: distribution of seats	all
q12a	EP: election regulations	66.6
q13a	Commission: election	50,13
q14a	Role of national parliaments	29.05
q15a	Right of legislative initiative	13, 29.05, 52
q16a	Legislative procedures: areas of application	13, 52
q17a	Council: rules and manners of operation	13

Appendix 3 *cont.*

	Convention Survey	*Eurobarometer 60.1*
q18a	Council: presidency	51
q19a	Commission: number of commissioners	29.08
q20a	Simplification of treaties	49
q21a	Council: application of unanimity requirement	52
q22a	For or against: a European constitution	49
q23a	Convention outcome: single text or different options	All