

**Anticipating Resistance: The Effect of Member State Preferences on the European  
Commission's Agenda-Setting Activity<sup>1</sup>**

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**Abstract**

The high success rate of Commission proposals seems to suggest that the European Commission is very influential in promoting European policies. However, we argue that the Commission's agenda-setting activity is affected by its anticipation of member states' preferences. The Commission acts with foresight and simply does not initiate a proposal when it knows that the proposal will not be acceptable to member state governments in the Council. In this respect, the Commission is far less powerful than it appears. We test this hypothesis with aggregate data on the number of Commission proposals for directives and the degree of EU support in the Council between 1976 and 2005. The results of the analysis broadly support the theoretical argument.

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## **The role of the Commission in the European integration process**

The power of the Commission to promote and shape the course of the integration process is one of the main unresolved questions in European integration research. For intergovernmentalists, the Commission is merely an agent of powerful member state interests. Its independent role is restricted to providing technically informed and politically neutral policy proposals, facilitating information exchange and brokering agreements between member states. In this view, the Commission is just an instrument of member states to attain their collectively best negotiation agreement (Moravcsik, 1993: p. 507). The Commission is a tool of member states to reach more efficient bargaining outcomes, but it has no independent effect on the content of those bargaining outcomes.

In contrast, neo-functionalists and other supranationalists attribute substantial influence to supranational institutions in general, and to the European Commission in particular (Sandholtz and Stone Sweet, 1998: p. 4; Sandholtz and Zysman, 1989: p. 96; Stone Sweet and Brunell, 1998: p. 75). According to this view, the Commission's right of initiative allows it to fuel and mould the integration process. The Commission's superior expertise and knowledge in many policy areas provides it with an informational advantage that it can use to promote its own institutional interests in the decision-making process. Also, the Commission's monopoly on drafting and initiating legislation allows it to set the broad parameters in which the subsequent political debates take place.

Finally, the third theoretical perspective takes a more nuanced position between these two extremes. Institutionalists argue that the influence of the Commission and other supranational actors depends on the preference constellation among member states as well as the institutional environment (Pollack, 1997: pp. 121-124; Tallberg, 2000; Tsebelis and Garrett, 2000, 2001). Other actors with institutional powers to change or reject Commission

initiatives, like member states and the European Parliament act as constraints on the Commission's power to shape and drive the integration process.

In this paper, we study the legislative agenda-setting activity of the European Commission between 1976 and 2005. To shed more light on the relative distribution of power between the Commission and member states, we examine how responsive the Commission is to changes in member states' attitudes towards European integration. Applying an institutionalist perspective, we expect that the Commission's decision to initiate legislation crucially depends on the attitudes of member states in the Council. If the Commission anticipates that a proposal will be rejected in the Council or amended towards a less preferred policy than the status quo, the Commission will likely abstain from introducing such a proposal. By focusing on the Commission's decision about whether or not to introduce a proposal, we study a largely neglected aspect of EU legislative decision-making. Most studies of the Commission's agenda-setting power focus on cases in which negotiations took place and decisions were eventually made. In these contexts, researchers find that the Commission can have significant influence on the content of agreements, either by framing the debate or exploiting different majority coalitions (Boessen and Maarse, 2008; Elsig, 2007; Princen and Rhinard, 2006)<sup>4</sup>.

While we do not dispute these findings, we argue that an exclusive focus on actual decision-making cases overlooks the arguably more fundamental question about the conditions under which the Commission decides to introduce a proposal in the first place. Only about one out of twenty proposals introduced by the Commission is not adopted by member states<sup>5</sup>. At least two possible explanations can account for this very high adoption

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<sup>4</sup> For a recent review of the policy framing literature, see Daviter (2007). For contrasting findings, see the studies by Haverland (2007), Selck and Rhinard (2005), and Thomson and Hosli (2006).

<sup>5</sup> See Table 4 in (König et al., 2006: p. 563).

rate. A supranationalist explanation would stress the Commission's resources and powers that allow it to ensure that almost every policy it desires will be adopted by the Council. In contrast, an institutionalist explanation would argue that the high adoption rate is due to a selection effect and does not reflect the Commission's power at all. The Commission appears successful because it only introduces those proposals that it knows to be broadly in line with the preferences of the required majority of member states. As Bachrach and Baratz have long pointed out, restricting the study of power to an examination of actors' influence in actual decision-making cases distorts the analysis (Bachrach and Baratz, 1962). The ability to keep issues off the agenda is just as or even more important as the ability to influence policy outcomes once issues are debated in the political arena. Our study contributes to the literature on Commission agenda-setting and the debate about the relative influence of supranational actors and member states in the integration process by examining this more elusive aspect of power.

In the next section, we first describe the logic of the theoretical argument through a simple institutionalist model of the Commission's proposal initiation decision. From this model, we derive a testable hypothesis about the effect of changes in Council attitudes on the Commission's legislative agenda-setting activity. Following the theory section, we discuss the research design, the operationalization of variables, and the data sources. The results of the analysis indicate that the Commission's agenda-setting activity is indeed responsive to changes in member state's attitudes towards European integration. The European Commission introduces more legislative proposals when the Council consists of mainly integrationist governments than when the Council consists of less integrationist governments. Although public support for European integration also increases the Commission's agenda-setting activity, it does not render the relationship between agenda-setting activity and Council attitudes spurious.

## **Modelling the Commission's proposal initiation decision**

To explicate the assumptions underlying our theoretical argument and demonstrate its logical consistency, we present a simple spatial model of the Commission's proposal initiation decision. Spatial models have originally been developed to study political decision-making in the United States (e.g. Krehbiel, 1988). Subsequently, the same technical apparatus has been used to model legislative decision-making in the EU (e.g. Crombez, 1996; Steunenberg, 1994; Tsebelis, 1994). In this context, it is important to note that the current model does not pretend to present completely new ideas. The main insight about the agenda-setter's behaviour resulting from the anticipation of the other actor's actions has already been established by Romer and Rosenthal (1978) more than three decades ago.

However, amongst the formal theories of EU decision-making, only Steunenberg's (1994) theoretical account models the Commission's decision about whether or not to introduce a proposal as the first move of the game.<sup>6</sup> In line with the aim of Steunenberg's model of predicting policy outcomes under different legislative procedures, it is more complex than the one proposed here. In our model, we strip the latter parts of the legislative process down to their bare essentials in order to highlight the considerations made by the Commission at the beginning of the game in deciding about whether or not to introduce a proposal. In this way, the model represents the core of our theoretical argument, while sidestepping debates about the powers and relative influence of different actors in the legislative process that are of secondary importance to our point.

The model is strategic in nature, as the Commission is supposed to take the potential reactions of other powerful actors into account when making its decision. The model is a simplification of any actual decision-making situation but we hope to capture one of the most

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<sup>6</sup> Tsebelis' (1994) analysis focuses on the last stage of the legislative procedure and Crombez (1996) explicitly rules out that the Commission can choose whether or not to introduce a proposal.

salient aspects affecting the Commission's decision to introduce a proposal by stressing the role of member states in the Council and their preferences. For the moment, we assume that the unanimity rule applies in the Council and that the EP does not have any binding amendment or veto rights. After explicating the basic logic of the model, the consequences of various modifications and extensions, including the possibility of qualified majority voting in the Council and the EP as a co-legislator, will be discussed.

The basic model consists of two stages: First, the Commission decides about whether or not to introduce a proposal. If the Commission refrains from introducing a proposal, the outcome is the current status quo policy. If the Commission introduces a proposal and transmits it to the Council, member states make a collective decision about whether to accept a new policy and how that policy should look like. The model does not impose any detailed restrictions on the precise bargaining protocol that governs interactions in the Council. We just assume that the Council members agree on an outcome that does not make them worse off than the status quo and that no other outcome exists that is collectively more preferable (i.e. the negotiation outcome is assumed to be individually rational and Pareto efficient<sup>7</sup>). To keep the exposition simple, we assume that the unanimity rule applies in the Council<sup>8</sup>. This assumption means that opposition by a single Council member is sufficient to reject a proposal. The type and sequence of moves in the model, as well as possible outcomes are illustrated in Figure 1.

**Figure 1 about here**

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<sup>7</sup> Gely and Spiller (1990) use this general characterization of the negotiation outcome to study policy-making in the United States.

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We assume that the policy space is one-dimensional, distinguishing between more and less favourable attitudes towards European integration. While the integration dimension might have lost in importance in recent years, it has historically been the main dividing line in EU politics and continues to be a major source of conflict today (Hix et al., 2007: p. 177; Mattila, 2004: p. 41; Tsebelis and Garrett, 2000: p. 10).<sup>9</sup> We denote the current status quo policy as *SQ* and refer to the most preferred policy or ideal point of the Commission by *COM*. The one-dimensionality of the policy space allows us to focus on the two most extreme Council members: *L* stands for the ideal point of the least integrationist and *M* for the ideal point of the most integrationist member state. All other member states have ideal points located somewhere between those extremes.

While we allow member state preferences to take on any value on the integration dimension, we require the Commission to prefer a policy that is more integrationist than the status quo. In addition, if all member states prefer a more integrationist policy than the policy

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<sup>9</sup> The logic of the model does not depend on any specific assumption about the content of the issue dimension. While the European integration dimension has been a major dividing line historically, recent studies have also found some evidence for the relevance of the left-right dimension in EU decision-making (Hagemann and Høyland, 2010; Mattila, 2004). Thus, in the empirical analysis, we investigate a possible effect on proposal submissions by changes in the left-right dimension. The assumption about the uni-dimensionality of the issue spaces is more consequential. In multi-dimensional spaces, the conditions for policy stability are hardly ever met. Fundamental disagreement on one dimension could always be off-set by side-payments on another dimension. If EU policy-making was taking place in a multi-dimensional policy space, the Commission would never have an incentive to withhold a proposal, so the assumption of uni-dimensionality is important for our argument. Note, however, that we are not claiming that EU policies are in fact uni-dimensional. For our argument to hold, it is sufficient that actors evaluate the outcomes on individual issue dimensions purely on their own merits, and do not perceive trading across dimensions as beneficial. The categorical rejection of member states with low corporate tax rates to any form of harmonization of corporate tax regimes is a case in point. Some issues are just non-negotiable. It is those issues that our model seeks to capture.

currently in force, we require the Commission to prefer any policy that is acceptable to the least integrationist member state to the status quo. Both restrictions rule out implausible preference configurations. The first restriction rules out that the Commission prefers a lower level of integration than currently in force. The second restriction rules out that the Commission has incentives to refuse introducing a proposal because the Council decision-making outcome would be more integrationist than what was acceptable to the Commission. Unlike Tsebelis and Garrett (2000: p. 15) in their supranationalist scenario, we do not assume that the Commission is always the most integrationist actor. However, we think it is reasonable to assume that the Commission will not intentionally block increases in the degree of integration. We further assume that all actors have complete information. This assumption implies that they know their own and each other's policy preferences, as well as the sequence of moves of the interaction.

Based on these assumptions, we can solve the game by backward induction. A few definitions make the exposition easier. First, we can define an actor's winset as the set of policies preferred by the actor to the status quo. We assume that actors have a symmetric utility function and denote actor  $A$ 's indifference point as  $i(A)$ . Second, we can define the Council's Pareto set as the set of policies such that no policy outside the set exists that makes all member states better off. In the one-dimensional scenario employed here, the Pareto set is delimited by the ideal points of the two most extreme Council members  $L$  and  $M$ . Third, we can define the negotiation set as the set of policies lying in the intersection of the Pareto set and the winset of the member state with an ideal point closest to the status quo. As discussed earlier, we assume that any negotiation outcome must be individually rational (i.e. lie within the actor's winset) and collectively efficient (i.e. lie within the Pareto set). Thus, the negotiation set indicates the set of possible negotiation outcomes in the Council. Finally, the feasible set indicates the range of feasible policy outcomes. It is defined by the intersection of



the Commission's winset and the negotiation set. The Commission will only introduce a proposal if the final outcome will make it better off than the status quo. Thus, any policy outcome must not only lie within the negotiation set of Council members, but also within the winset of the Commission.

In the last stage of the game, the members of the Council decide whether they can agree on policy change. They will be able to do so if the Council's Pareto set does not include the status quo. If the Pareto set includes the status quo, at least one Council member will be negatively affected by a policy change and thus veto any new proposal. When the Commission knows that its proposal will be blocked in the Council, it has no incentive to introduce a proposal in the first stage of the game<sup>11</sup>. This Council gridlock scenario is depicted in Panel A of Figure 2. If the Pareto set does not include the status quo, all member states prefer a new policy over the status quo. The new policy will then be located somewhere in the intersection of the Council's Pareto set and the winset of the member state with an ideal point closest to the status quo. The Commission's decision in the first stage of the game depends on which side of the status quo the Council's Pareto set lies. If the Council members all prefer a less integrationist policy over the status quo, the Commission will again not introduce a proposal. The outcome resulting from negotiations among member states would make it worse off than the current policy in place. This anti-integrationist Council scenario is illustrated in Panel B of Figure 2. The Commission will only introduce a proposal when all member states prefer a more integrationist policy over the status quo. Panel C in Figure 2 pictures a situation in which all Council members agree on such a more integrationist policy.

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<sup>11</sup> Technically, the Commission is indifferent between introducing a proposal and not introducing a proposal. However, if there are any costs associated with introducing a proposal that is subsequently rejected, the Commission will not introduce such a proposal.

## Figure 2 about here

From the scenarios illustrated in Figure 2, deriving a hypothesis about the effect of member state preferences on the Commission's agenda-setting activity is straightforward. In order to turn a gridlocked Council into an integrationist Council, at the very least one member state has to become more favourably disposed towards European integration. In the case of an anti-integrationist Council, all member states have to change their preferences towards favouring more integrationist policies. Translating these comparative statics insights from the deterministic model into a probabilistic hypothesis yields the following statement:

*Hypothesis:* The more supportive member states are of European integration, the more likely it is that the Commission will introduce a proposal.

The model outlined above made a number of simplifying assumptions. Most of these assumptions are not directly derived from the informal ideas discussed earlier, but required for the specification of the formal model. For example, our informal argument about the anticipatory behaviour of the Commission does not say anything about the form of actor's utility functions or the dimensionality of the policy space. Nor does it say anything about the expected negotiation outcome in the Council. The assumptions about the location of the ideal point of the Commission are also secondary, although they are contained in the informal argument. The entire debate about whether or not the Commission plays an important role in promoting European integration is based on the usually implicit assumption that the Commission favours more integrationist policies.

The main idea behind the informal argument is represented in the structure of the game itself and the complete information assumption. The complete information assumption means that the Commission is perfectly informed about the preferences of member states.

Anticipating member states' views on an issue and the range of possible negotiation outcomes in the Council, the Commission decides about whether or not to introduce a proposal. The assumption that the Commission knows the ideal points of the member states makes sure that it does not make a mistake in the form of introducing a proposal that will subsequently be rejected by member states or moved into a less integrationist direction than the status quo policy. In our view, this is the main reason why the rejection rate of Commission proposals is so low. The Commission introduces only proposals that it knows will be broadly acceptable to the Council<sup>12</sup>.

Given the centrality of the assumption that the Commission knows the preferences of member states, we discuss a few real-world mechanisms through which the Commission can obtain this information. The Commission can learn about member state preferences in at least three ways: The first mechanism is trial-and-error. The Commission interacts with member states on an ongoing basis. Once one of its policy proposals has been rebuffed by member states in the Council, the Commission will be reluctant to introduce it again until major changes in the views of the Council have occurred. However, this mechanism is a rather costly way of discovering member state preferences. The other two mechanisms are more efficient. The second mechanism relates to the Commission's committee system. As recent research has shown, the committees assisting and advising the Commission in drafting policy proposals are largely dominated by member state representatives (Gornitzka and Sverdrup, 2008). Thus, these committees function as transmission belts to relay the interests of member states to the Commission (Hix, 2005: p. 223). The third mechanism relates to direct inter-

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<sup>12</sup> The deterministic theoretical model does not allow for any mistakes at all. While we think this is a useful approximation, we are not arguing that the Commission in the real world never makes mistakes. We just argue that the Commission makes correct decisions most of the time, as indicated by the 95 percent adoption rate of its proposals.

institutional communication. The Commission often floats new policy ideas in the form of so-called communications. These communications, usually accompanied by more detailed staff working papers, are then discussed by the Council. The Commission can use these policy debates to gauge the policy positions of different governments. Rather than being initiated by the Commission, inter-institutional communication can also emanate from member states themselves. Both the Council and the European Council regularly call upon the Commission to introduce a proposal on a certain topic. While these calls do not specify the precise content of the requested proposal, they probably send the clearest signal about the willingness of member states to adopt new policy in an area. This short discussion shows that the Commission has a number of means at its disposal to learn about member states' preferences<sup>13</sup>.

The model outlined above made a number of extremely simplifying assumptions about the EU legislative process in order to clearly explicate the basic logic underlying the theoretical argument. In many instances, Council members have the possibility to adopt legislative decisions by qualified majority vote and the European Parliament has developed over time from a purely consultative body to a fully-fledged co-legislator with important amendment and veto rights. While our research design does not allow us to differentiate between the effects of differences in the Council voting rule and the legislative procedure empirically, it is important to discuss the extent to which those factors affect the model's predictions. For a model of decision-making under qualified-majority rule, we could simply

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<sup>13</sup> The three mechanisms outlined above refer only to the more formal and institutionalized ways of finding out what is acceptable to member states. The Commission can also learn about member state preferences through more informal, bilateral communication between the Commission and individual member states. For example, member state governments often voice their concerns about upcoming proposals in letters directed at the Commissioner in charge. This might indicate that member states have an incentive to reveal their preferences as early as possible in the policy-making process, at least when they are in fundamental opposition to a proposal.

switch the identity of  $L$  and  $M$  from the least and most integrationist member state to the two member states that are pivotal to reach a qualified majority. Since the two qualified majority pivots have either similarly or less extreme preferences than the least and most integrationist member states, a gridlocked Council (panel A in Figure 2) should be less common than under the unanimity rule. A preference configuration resulting in a gridlocked Council under the unanimity rule will at least sometimes correspond to the situation of an integrationist Council (panel C in Figure 2) if member states can decide via qualified majority voting. Thus, keeping the preference configuration constant, we would expect that the Commission is more likely to introduce a proposal under qualified majority voting than under unanimity. However, for both institutional settings, the hypothesis about the effect of member state preferences also still holds. The more integrationist member states, the more likely the Commission is to introduce a proposal.

For much of the period considered here, the Parliament only had a consultative function. In fact, about 80 percent of all proposals in our sample were introduced under the consultation procedure. Until the entry into force of the Single European Act in 1987, the Parliament did not have any strong legislative powers; and even by the end of the study period in 2005, the proportion of proposals introduced under the consultation procedure still accounted for about 60 percent of all proposals. Nevertheless, the role of the EP increased considerably over time and cannot be completely ignored. Theoretically, the EP can easily be incorporated as an additional veto player into the model. Intuitively, the inclusion of the EP does not have an effect on the model's predictions in situations in which the Commission faces a gridlocked or an anti-integrationist Council. In both cases, the preference configuration of member states is already sufficient to prevent the Commission from introducing a proposal. The only situation in which the EP really matters for the Commission's decision to introduce or not introduce a proposal is when the Commission

faces an integrationist Council. In this case, the Commission would usually introduce a proposal. However, if the EP is anti-integrationist, then the inter-institutional pareto set will include the status quo and there will be no overlap in the winsets of the Parliament on the one hand and the winsets of the Council members and the Commission on the other hand. Therefore, the Commission is less likely to introduce a proposal when the EP has substantial law-making powers than when the EP is only consulted during the legislative procedure. Again, our main hypothesis is robust to the inclusion of the EP in the model. Keeping the ideal point of the EP constant, a move of member states towards more integrationist attitudes will either not change the prediction of the model or lead the Commission to introduce a proposal where it would not have introduced one before. While a focus on the Commission's anticipation of member state preferences clearly cannot yield a complete account of the Commission's proposal initiation history, it should be able to explain a large part of it. In any case, the discussion has shown that the voting rule and the legislative procedure are additional rather than alternative explanatory factors. Their omission would not bias the results of the empirical analysis. Nevertheless, to yield a more complete picture, the empirical analysis examines the overall effect of both changes in the voting rule and the involvement of the EP by considering the consequences of different treaty amendments.

### **Operationalization and measurement**

The research strategy we adopt for testing the hypothesis derived in the previous section is a diachronical analysis of aggregated Commission activity over the period 1976 to 2005. Unfortunately, we cannot study individual proposal initiation decisions as we cannot observe non-introductions of proposals. However, the constraining effect of Council preferences should be visible in the aggregate proposal output. While this study design is far from ideal, it gives us some leverage to test the proposed relationship between member state preferences

and Commission proposal activity. This section provides details on the operationalization and measurement of the variables used in the analysis.

We operationalize the Commissions' agenda-setting activity using the number of directives proposed by the Commission in each semester. We opt for the semester as unit of analysis because decision making in the EU follows the rhythm of the meetings of the Council Presidencies. Although the individual Council configurations and the working parties attached to them have meetings throughout the year, June and December are the months in which most legislative decisions are adopted, modified or abandoned (Toshkov, 2009). In principle, the data that we employ allows for an even finer disaggregation into months or even weeks, but our independent variables change rather slowly over time and some of our variables are only measured twice a year. Therefore, the semester emerges as the natural unit of analysis of EU legislative activity over time.

We focus only on proposals for directives because the other two types of binding EU legislative acts – regulations and decisions – either have a limited scope of application and/or deal mostly with routine administrative issues (Golub, 1999: p. 738). Of course, there are important regulations and decisions with far-reaching consequences. We have no clear criteria, however, to single out the few important ones from the thousands of trivial regulations and decisions proposed each year. In addition, the bulk of EU regulations concern the agricultural policy sector, which would skew our sample if we were to include those. We obtain data on the number of proposals from the Prelex database. Prelex is the EU database of inter-institutional procedures and tracks the main stages in the legislative process in the EU<sup>14</sup>. It is managed by the Commission itself and provides a record of its legislative proposals for the period 1976 to 2005. We used automated data extraction to collect the individual records, which is a more reliable method than using the built-in search facilities of the database. An

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<sup>14</sup> Prelex is freely accessible at <http://ec.europa.eu/prelex>.

overview and descriptive statistics of the number of proposals is offered in the next section of the paper.

Having described the operationalization and measurement of our dependent variable, we turn towards a discussion of our main independent variable - Council EU support. Preferences are notoriously difficult to measure and our operationalization choices are restricted by the available data. Especially in a diachronical study like the one presented here, we have no options but to rely on existing preference data. We operationalize Council EU support by the weighted mean level of EU support in the Council. We choose to focus on the weighted mean instead of the range or the minimum of EU support, because the weighted mean is the variable that reflects most closely the nature of decision-making in the EU (Achen, 2006).<sup>15</sup> We choose to weight national positions by countries' vote shares because it is unrealistic to assume that Luxembourg marshals the same influence as Germany in the Council<sup>16</sup>. While votes might be seldom counted, the vote share a country possesses provides a useful proxy for its overall influence at the EU negotiations table.

Once these operationalization choices were made, we faced two options regarding the data sources which we could use: expert surveys of government positions and estimates based

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<sup>15</sup> From a theoretical point of view, the minimum of EU support might be more appropriate when decisions are taken by unanimity. However, in practice, the overwhelming majority of Commission proposals can be adopted by a qualified majority of member states in the Council. Empirically, unanimity is the exception rather than the rule. The theoretical model focused on decision-making under unanimity rule only because it is less complicated than decision-making under qualified majority voting, and at the same time, it yields essentially identical insights about the effects of changes in member states' preferences on the probability that the Commission introduces a proposal.

<sup>16</sup> We replicated the analysis using the un-weighted mean instead of the weighted score. We obtained greater statistical significance for the relationship between the number of proposals and Council EU support than in the model reported in the paper, but a slightly smaller effect size. Note that, due to data limitations, we do not weight policy positions by actors' salience.



on document analysis of party manifestos. We opted for the latter because of the long time-span of our analysis. While expert surveys provide useful estimates of party positions on a range of issue, including European integration, there are no systematic surveys of party positions for the period before the late 1990s. If we were to use expert survey estimates, we would have had to extrapolate estimates of party positions made in 1999 to parties governing in the 1970s and 1980s. For a study that is primarily interested in the effects of preference changes over time, such a near-constant preference indicator would have been extremely problematic. Moreover, we would have had a large number of missing cases in the form of parties and governments for which no measures are available. Thus, we measure mean EU support in the Council with the estimates provided by the comparative party manifestos project, which uses programmatic party statements to capture the attitudes of parties on a variety of issues (Klingermann et al., 2007).

The EU support variable based on this data source tracks the number of positive statements about European integration that parties make minus the negative statements. An advantage of this measure is that it varies not only between parties but also for the same party over time. Each national government score is calculated as the weighted mean of the positions of the government parties, where the weights represent the proportion of parliamentary seats held by each party. The EU level average is then computed as the weighted mean of the national government scores. In this case, the weights represent countries' vote shares. We take the national governments in power in June of the respective year as the relevant ones for constructing the score for the 1<sup>st</sup> semester of the year, and the ones in power in December as the relevant ones for the scores for the 2<sup>nd</sup> semester of the year. A plot of the time series and descriptive statistics of this variable are presented below.

In addition to the main explanatory variable Council EU support, we measure and include public EU support in the analysis as a potential confounding variable. Public support

is related to the amount of legislation adopted in the EU over time (Toshkov, 2009), and thus potentially to the number of Commission proposals as well. Furthermore, it is likely that elite and societal support of the EU move hand in hand, even if it might be unclear who leads and who follows. Therefore public support for the EU emerges as a potential confounding variable, which if not included in the model can bias inferences about the relationship between Council EU support and the Commission's legislative agenda-setting activity over time. We measure public EU support by the percentage of positive answers to the relevant question provided twice a year by Eurobarometer<sup>17</sup>. Finally, we employ three control variables related to the Commission's 'lifecycle'. Since the operationalization and measurement of these variables are straightforward, we discuss them in the following section, which presents the results of the statistical analysis.

### **The impact of EU support on the number of Commission proposals**

We start the analysis with a presentation of the features of the outcome variable, the number of proposals for directives tabled by the Commission in each semester from the beginning of 1976 until the end of 2005. The top panel of Figure 3 tracks the movement of this variable over time. We can see that the time series is quite jittery with big variation from one semester to the next. The 11-point moving average superimposed on the graph shows evidence for a weak, increasing trend in the number of proposals between circa 1984 and 1990, but the trend reverses afterwards. The period of intensified activity corresponds with the initiative for completing the Single Market during the Commissions chaired by Jacques Delors. What is surprising is that this particular episode in the history of the European Union has not produced an even more marked increase in the number of Commission proposals.

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<sup>17</sup> The question is: "Generally speaking, do you think that (OUR COUNTRY)'s membership of the European Union is...?" and the possible answers are 'a good thing', 'neither good nor bad', "a bad thing".

### **Figure 3 about here**

The conventional European integration story highlights the period following the White Paper on the Completion of the Single Market as a period of tremendous upsurge in Commission proposals<sup>18</sup>. As we see from the picture, there is a slight increase but certainly not one of dramatic proportions. Furthermore, even in this period there are semesters with a rather low number of proposals, next to ones with notably high values.

### **Figure 4 about here**

The top panel of Figure 4 presents the distribution of the number of proposals. The variance is not consistent with the assumptions of the normal or the Poisson distribution. The variable has a mean of 26.4 with a standard deviation of 8.9 and a variance of 78.7. The variable ranges between 7 and 56 proposals per semester. Periods of exceptionally low and high numbers of proposals are more common than we would expect if the data followed one of these distributions. The bottom panel of Figure 4 shows the auto-correlation function (ACF) of the number of proposals. The conclusion we draw from inspecting the ACF is that there is no significant auto-correlation for any lags. This means that past values of the series are not correlated with present values. The lack of auto-correlation is important because we do not have to consider the threat of auto-correlation when building the statistical model. The lack of

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<sup>18</sup> For a study that finds that the number of adopted important pieces of legislation over time is much 'flatter' and the late 1980s and early 1990s much less exceptional than the accepted wisdom suggests, see Toshkov (2009).

evidence for auto-correlation means that we can treat the number of proposals as a random variable.

Next, we turn to an exploration of the movements of our main explanatory variables over time. The middle panel of Figure 3 represents the value of mean EU support in the Council of Ministers per semester over the 29 years between 1976.I and 2005.II. The overall mean is 2.8 and the standard deviation is 0.9. Following a relatively flat period lasting until 1984, the Council EU support value peaks at around 1990, after which it drops substantially until around 1995. Afterwards, Council EU support rises sharply to around 4.5, only to reverse direction again after 2001. The movements of EU public support (bottom panel of Figure 3) over time are familiar and have received a lot of scholarly attention. In short, EU public support slowly but consistently grows from the late 1970s to reach a maximum of 72% of the EU population in favor of integration in 1992, but the level of support falls steadily afterwards to levels slightly below those in the 1970s.

### **Figure 5 about here**

The three panels of Figure 5 show scatterplots of the three variables we have been discussing and the linear regression line. We can already note that there are positive relationships between the number of proposals and Council EU support (top left) and the number of proposals and public support (bottom left). The correlation coefficients are 0.37 and 0.27, respectively. There is also evidence for a relationship between Council and public EU support (top right panel), although the correlation of 0.18 is modest. Still, this confirms our expectation that public support might be a confounding variable for the relationship between Council EU support and the number of Commission proposals.

The scatter plots distinguish between observations falling within the period of the push for the creation of the single market (1986-1992, shown as squares) and the remaining observations (shown as triangles). We can see that the bivariate relationship between Council EU support and the number of proposals holds for both subsets of the data. At the same time, the relationship between public support and the number of Commission proposals seems spurious. The positive association found in the aggregate seems to be driven entirely by the fact that in the period 1986 to 1992 both public support for integration and the number of proposed directives were high, while both were lower before and after this period. It is also interesting to note that while for the period of the completion of the Internal Market Council EU support and public EU support are strongly and positively related, the link is reversed and we find a strong negative relationship between government and public EU attitudes before and after this period.

Before we turn to a more comprehensive multivariate analysis, we present in more detail the temporal cycles in the number of Commission proposals adopted. The alternating pattern of autocorrelations in the top right part of Figure 4 already suggests that, for some reason or another, semesters of high activity are usually followed by semesters of low activity and vice versa. In addition to this seasonal effect in which the autumn semesters are more productive than the spring semesters, we suspect that the Commission's lifecycle should be responsible for some of the variation in the number of proposals over time. When freshly instituted, the new College of Commissioners needs time to gain momentum and produce proposals. At the same time, during their last year before their term is over, the Commissioners should be especially eager to transform their ideas into legislative proposals. Looking at Figure 6 we can confirm these expectations. The figure presents the number of proposals adopted by each Commission for each semester of its tenure (solid black dots) and

in addition indicates the mean values averaged for each semester over all Commissions (the smaller grey dots).

**Figure 6 about here**

We can see that the first semester is in general less productive than the remaining. Furthermore, it is clear that especially the last two semesters of a Commission's term are increasingly productive. The figure allows for a comparison between the productivity and rhythm of various Commissions as well. For example, we can note that the last year of the Jenkins Commission has been especially productive, while the Prodi Commission has produced fewer proposals in its later years than average. The slightly lower than average productivity of the Santer Commission in its last semester might be due to the controversies it got entangled in. The first two Delors Commissions are above average in almost all semesters and also over the entire period (compare the dotted vs. the solid grey lines). But even these two Commissions, despite being led by the same President and much continuity in the College of Commissioners cannot escape the cycle where the 1<sup>st</sup> semester of a new Commission is much less productive than the last one of an outgoing one. Curiously, the seasonal pattern is quite strong for the first two years of a Commission's term, but weaker for the last years of the cycle. An important message of the plots presented in Figure 6 is that the variation of proposals over time within the same Commission is comparable to, if not larger than, the variation between Commissions. This indicates that there is a substantive amount of short term variation in the number of proposals that needs to be accounted for.

In addition to the intrinsic insight that it brings, the exploration of the cycles in Commission activity is important for constructing an adequate statistical model for the links between Council and public EU support and the number of proposals adopted. The cyclical

variation can obscure the real effects of our main explanatory variables unless it is accounted for. Hence, we use three variables to capture the cyclical nature of Commission activity: a seasonal dummy indicating the semester of the year, an indicator for the first semester of a new Commission, and an indicator for the last year of an outgoing Commission.

Having explored the developments of our variables over time, we now turn towards constructing and developing a parametric statistical model accounting for the variation in the number of Commission proposals. As discussed above, a model based on the normal distribution would not be appropriate for the data at hand. Even the Poisson distribution, which is in principle suitable for modelling count data, under-estimates the dispersion of public proposals in the data, as it forces the mean and the variance to be equal. Hence, we opt for the negative binomial specification which allows for over-dispersed data.

**Table 1 about here**

Table 1 presents the results from the estimation. All variables are in the expected direction.. While it is not possible to report a  $R^2$  from the negative binomial model, a linear specification with the same variables has an adjusted  $R^2$  of 0.44. The signs of the coefficients show that Council EU support, public EU support, and the indicators for the second semester and the last year of a Commission have a positive influence on the number of proposals tabled. The binary variable for the first semester of a new Commission has the expected negative effect. Because the model is nonlinear, we cannot interpret the regression coefficients directly as effect sizes. Instead, we calculate factor changes in the expected count of Commission proposals.

The rightmost column of Table 1 reports the standardized factor changes. For a unit change in EU Council support, the expected number of proposals changes by a factor of 1.15.

In other words, each additional point on the Council EU support scale increases the number of Commission proposals by almost 15%. The 95% confidence intervals of this estimate range from 1.08 to 1.26. The effect is comparable to a one-standard deviation change in the dependent variable, which is 10 proposals. The control variables have substantial effects. The last year of a Commission is associated with a 30% increase in the number of proposals adopted. In contrast, during the first semester of a new commission, more than 20% less proposals are adopted on average.

**Figure 7 about here**

Another way of gaining an insight into the estimation results is by plotting the predicted number of Commission proposals for a given combination of values on the independent variables. Figure 7 shows how the expected number of proposals changes over the observed range of Council EU support when public EU support is set to its minimum and maximum value, respectively. In the first case the number of proposals rises from 31 to 47 and in the second case from 40 to 61 as EU support in the Council increases from its lowest to its highest observed values.

The model is quite stable. The plot of the standardized residuals vs. the fitted values (not shown) reveals no apparent problem with non-constant variance. Removing an outlying observation, which seemed to have a disproportionately big influence on the estimated coefficients, did not result in substantial changes in the estimated effects and their significance. As a robustness check, we also re-estimated the model with a moving average of the Commission proposals as the dependent variable, rather than the raw number of proposals in a specific semester. This led to a slight drop in the size of the estimated coefficients but increased the statistical significance of the results as the standard errors got smaller.



Furthermore, we checked for nonlinearities between the response variable and the two main independent variables. Using partial-residual plots we concluded that there is no evidence for non-linearity. Lastly, we tested whether there is a significant interaction between Council and public EU support but found no supporting evidence.

Altogether, we find a robust relationship between EU support in the Council and Commission agenda-setting activity, measured by the number of legislative proposals tabled. Public support is also positively related to the number of proposals, but this effect seems to be largely driven by a strong association during the Delors Commissions. While the effect of Council EU support is more robust, both effects are moderate in size. Council and public EU support appear to be contributing factors for more proposals, but they are far from being necessary or sufficient conditions. There are periods in which EU support in the Council is lower, and still the Commission proposes a substantial number of proposals. Similarly, there are times when Commission activity is low despite a high degree of Council EU support. Measurement problems especially in regard to EU support in the Council and complex lags in the response of the Commission to the changing configuration of Council preferences might be responsible for the fact that we do not find a stronger relationship. Noting these caveats, we can conclude that the Commission adjusts to some extent its agenda-setting activity anticipating the levels of EU support in the Council and amongst the general public. In the next section, we provide several illustrations of the inferences of the statistical model by looking into specific time periods in the history of European integration and focusing on the impact of Council EU support.

## **Conclusions**

A major issue in the study of European integration concerns the relative power of supranational institutions and national governments in steering and shaping this process. In

particular, the influence of the European Commission is subject to much debate. While neo-functional and institutionalist scholars might agree with intergovernmentalists that member states are largely in charge of constitutional changes implemented through reforms of the EU treaties (Wallace et al., 1999: pp. 162, 165), they would usually assert that the Commission exerts much influence on the integration process through its important role in day-to-day decision-making of the EU (Sandholtz and Stone Sweet, 1998; Stone Sweet and Brunell, 1998; Tsebelis and Garrett, 2001). The Commission's exclusive right of initiative is widely seen as one of its major assets to promote and form the European integration process. The Commission seems to be able to shape policy to its liking by framing the problem in a certain way or exploiting the possibility of different qualified majority coalitions in the Council. However, these studies neglect what Bachrach and Baratz have called the second face of power (Bachrach and Baratz, 1962). When it comes to agenda-setting power, the power to determine whether or not an issue is going to be on the agenda logically precedes the power to influence the final decision-making outcome. The study of actual decision-making cases is not able to uncover this more hidden form of power and an exclusive focus on such cases biases the analysis of influence and power in politics.

While the Commission has the formal and exclusive right to initiate legislation, it will usually take the views of member states into account when deciding about whether or not to submit a proposal. In this view, the very high rate of successful Commission proposals is not a result of the Commission's power to see its ideas adopted by member states in the Council, but due to the Commission's foresight in anticipating resistance. Usually, the Commission will not have incentives to initiate a legislative proposal that it knows will be unacceptable to member states. We presented a simple theoretical model to elaborate on this selection effect. The model illustrates the conditions under which the Commission will or will not introduce a proposal. Under the plausible assumption that the Commission has rather integrationist

preferences, it will abstain from introducing a proposal when it faces a Council that favours a less integrationist policy than the status quo or if it faces a gridlocked Council that is divided about the future course of integration. Anticipating their views, the Commission will only introduce a proposal that will be broadly acceptable to member states and that will result in an increase in the level of integration of a certain policy area.

We tested this hypothesis with data on the aggregate agenda-setting activity of the Commission and EU support in the Council between 1976 and 2005. While non-decisions are hard to observe and study, the consequences of the anticipation effect should be visible in changes in the aggregate Commission output over time when the views of the Council change. The statistical analysis revealed a positive relationship between Council EU support and the number of proposals for directives introduced by the Commission. This association remained robust after controlling for seasonal and Commission life cycle effects and the effect of public EU support. Thus, the results of the empirical analysis support the anticipation hypothesis.

While robust, the size of the relationship is moderate in size, and there is a substantial degree of variation that is not captured by the model. Measurement problems in regard to the EU support of the Council might be to blame for the lack of a greater effect. The government positions estimated from party manifestos are for now the only option researchers have to systematically compare party positions over extended periods of time and across the EU. Recent advances in automated text analysis might provide improved measures that are based on a wider selection of documents and represent the underlying positions of parties and governments better. The results presented in this paper will certainly benefit from replication based on a new measure of Council EU support. Still, the fact that the analysis revealed the expected association despite these measurement problems gives us confidence into the validity of our conclusions.

The complex relationships between elite and public preferences and Commission activity present an interesting view of the dynamic links between mass attitudes, government positions, and policy output in the EU. Understanding the temporal dynamics of the European polity is an important, albeit somewhat neglected area of European integration research. Recent studies have suggested that the overall legislative productivity of the EU responds to shifts in public EU support, that government EU support might be higher after periods of worse economic conditions, especially high unemployment (Toshkov, 2009), and that public and elite EU preferences interact in complex ways (Carrubba, 2001; Hellstrom, 2008). The present paper has illuminated another piece of the puzzle by discovering that the Commission's agenda-setting activity is constrained by the degree of EU support in the Council. Building a full picture incorporating all these links is a task that should be addressed in the future, if we are to understand the dynamic interplay of forces shaping the process of European integration.

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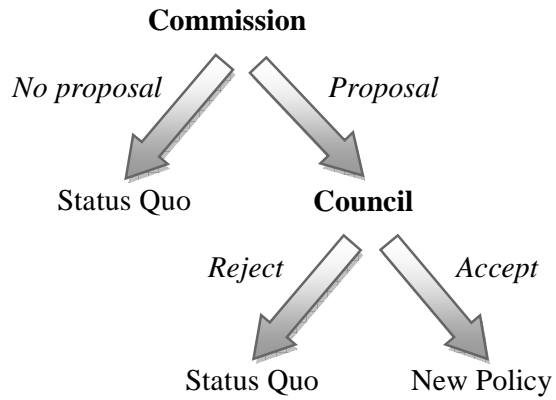
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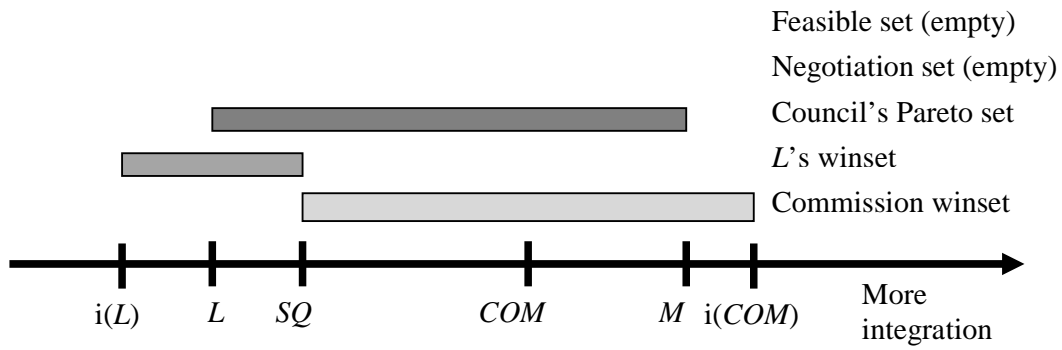
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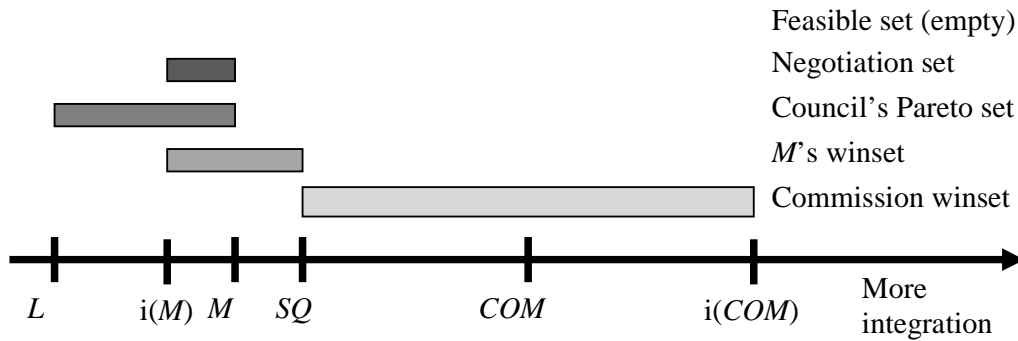




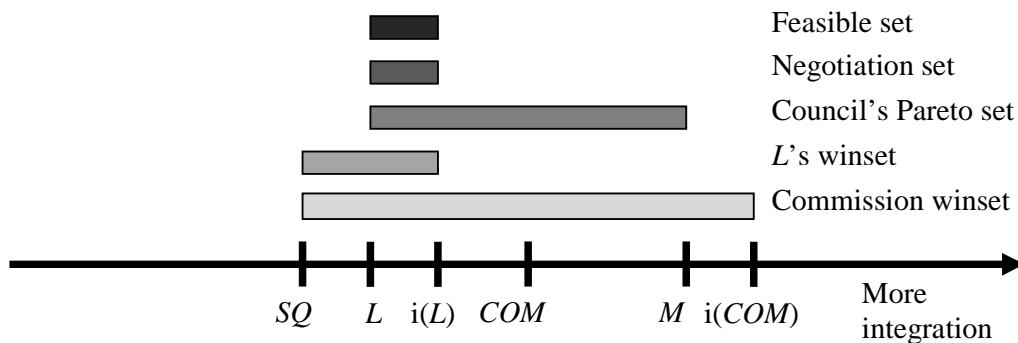
*Fig. 1. Sequence of moves in the Commission proposal initiation model. In the last stage, the Council rejects the proposal if the status quo lies within member states' Pareto set and negotiates a new policy otherwise. Anticipating the decision of the Council, the Commission introduces a proposal in the first stage if the Council is not gridlocked and if it prefers the new policy negotiated by the Council to the status quo.*



A. Gridlocked Council: Commission does not introduce proposal



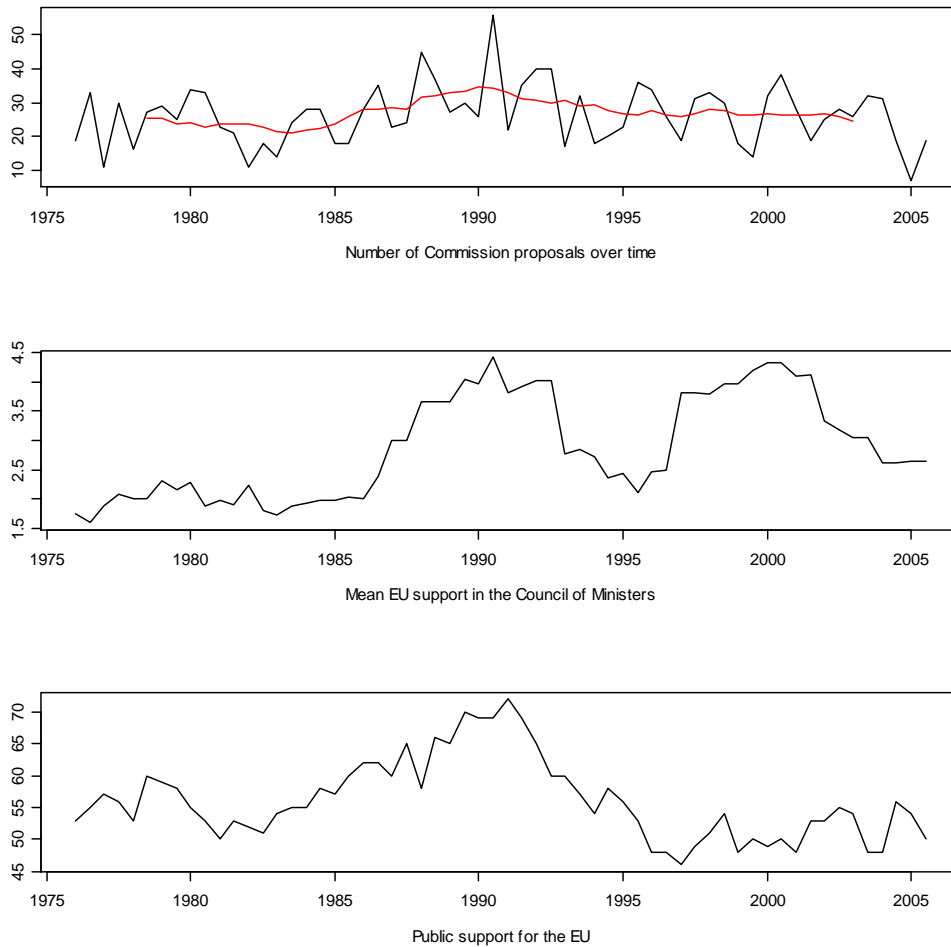
B. Anti-integrationist Council: Commission does not introduce proposal



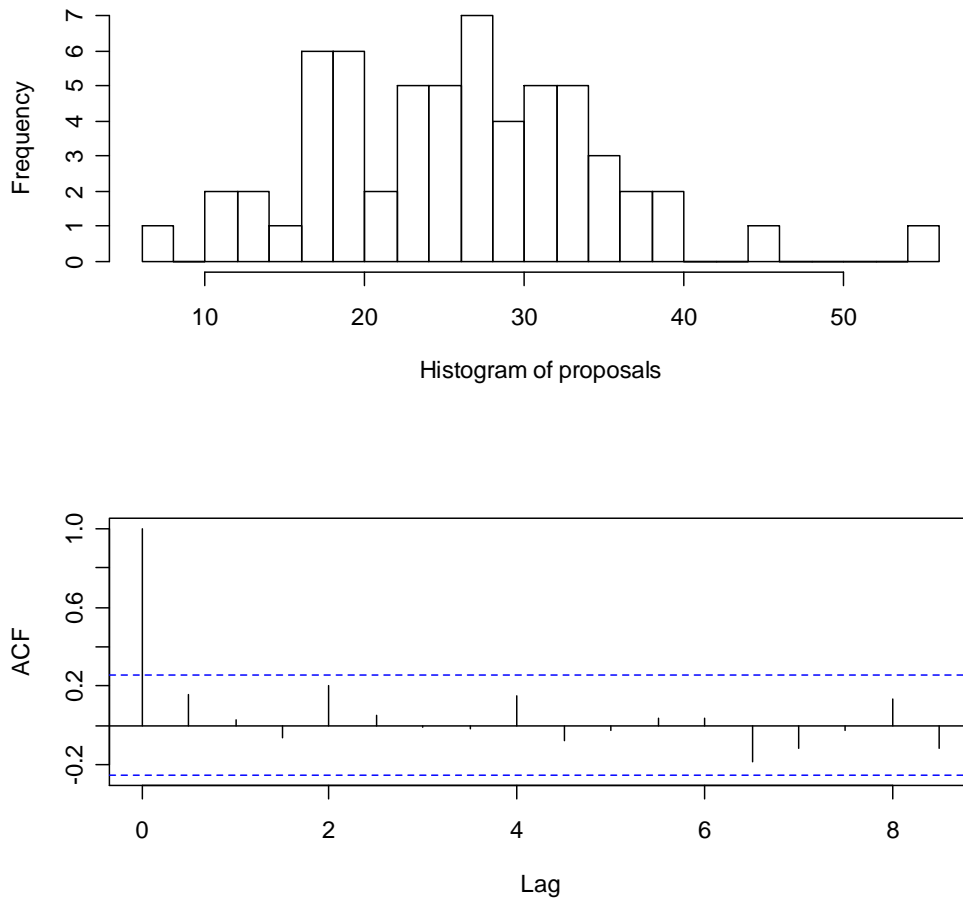
C. Integrationist Council: Commission introduces proposal

Fig. 2. Commission's agenda-setting activity as a function of Council preferences.

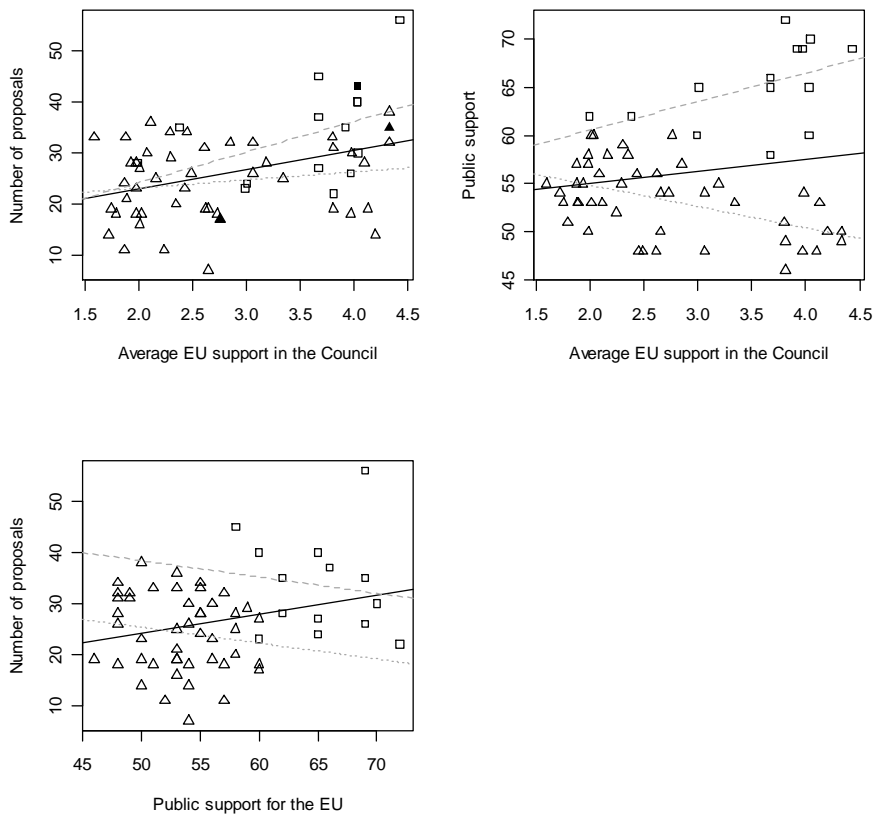
Panel A: The Commission does not introduce a proposal because a change in either direction from the status quo would be vetoed by at least one member state. Panel B: The Commission does not introduce a proposal because the Council amendments would reduce the level of integration. Panel C: The Commission introduces a proposal because the Council will agree to a more integrationist policy.



*Fig. 3. Changes in variables over time. Top panel: the number of Commission proposals for directives per semester from 1976.I to 2005.II. An 11-point rolling mean is added. Middle panel: mean EU support in the Council of Ministers. Bottom panel: public support for the EU. Sources: Own calculations based on data derived from Prelex (number of proposals), Eurobarometer (public EU support), and Comparative Party Manifestos Project (Council EU support, see footnote 22).*



*Fig. 4. Commission agenda-setting activity. Top panel: histogram of the distribution of the number of proposals. Bottom panel: auto-correlation function for the same variable. Source: Own data derived from Prelex.*



*Fig. 5. Bivariate analysis. Scatter plots of the number of Commission proposals vs. Council EU support (top left), the number of Commission proposals vs. public EU support (bottom left), and public EU support vs. Council EU support (top right). Observations that fall within the Single Market programme (1986-1992) are shown as squares, while the others are represented by triangles. The solid lines present linear regression fits for the entire sample. The dashed lines are linear fits to the observations from the Single Market period only, while the dotted lines are the linear fits to the data excluding the Single Market period. The solid squares and triangles in the top left scatterplot are observations selected for detailed discussion in the text. Sources: Own calculations based on data derived from Prelex (number of proposals), Eurobarometer (public EU support), and Comparative Party Manifestos Project (Council EU support, see footnote 22).*

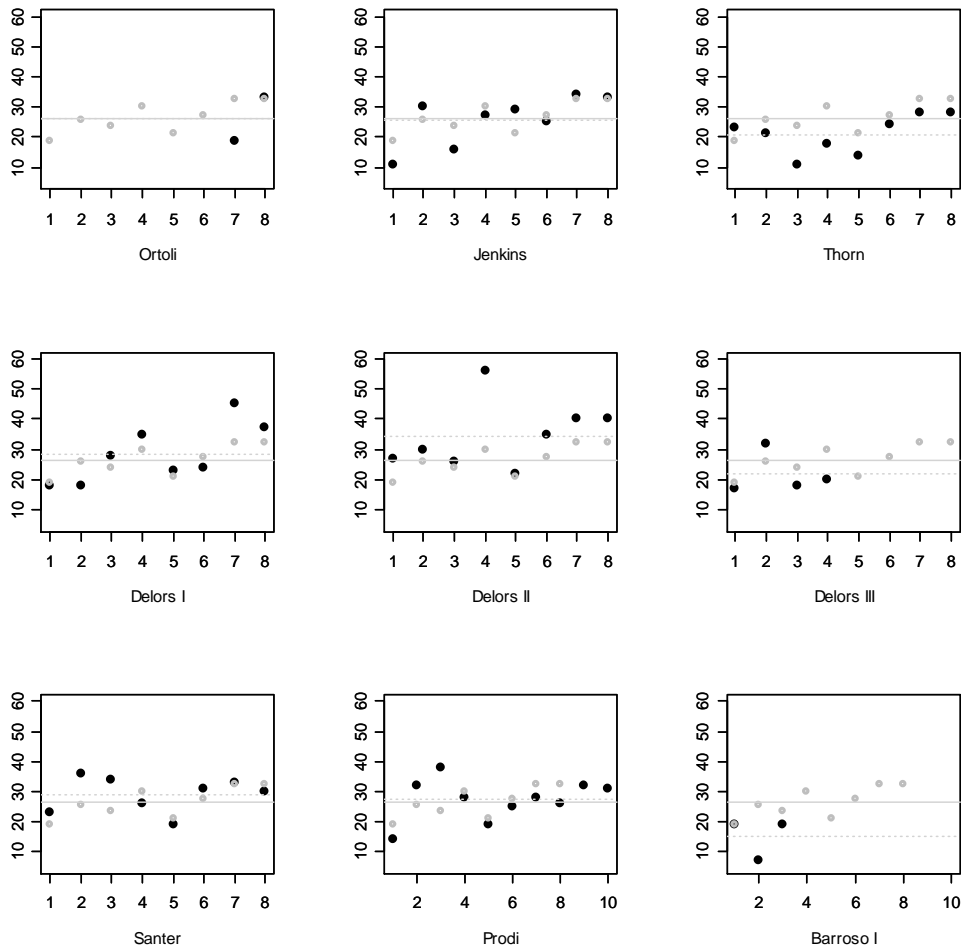
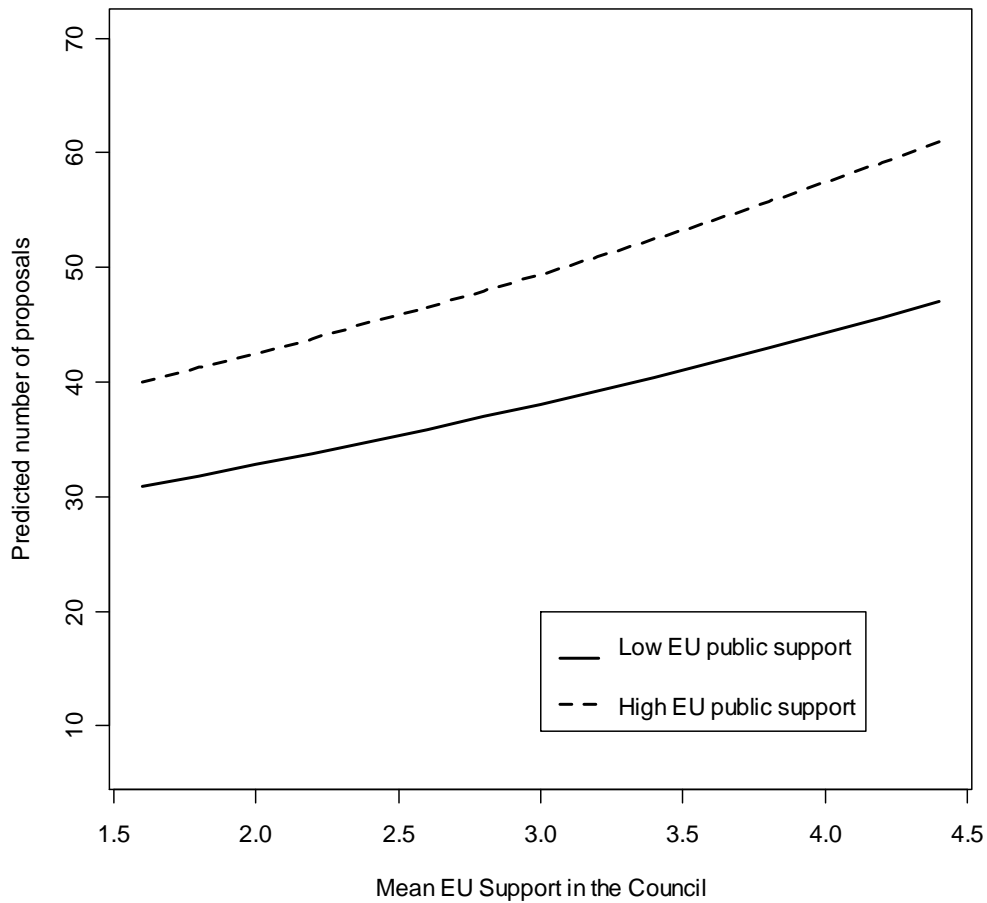


Fig. 6. The number of proposals during the lifetime of individual Commissions (distinguished by the name of their Presidents). The solid black dots represent the actual number of proposals adopted in each consecutive semester of the life of the Commission. The smaller grey dots represent the mean number of proposals adopted in the respective semester averaged over all Commissions. The solid grey line shows the overall mean of proposals adopted over the period 1976.I to 2005.II, while the dotted grey line shows the mean of proposals adopted during a specific Commission. The caretaker Commission led by Marin is not included because of its short tenure.



*Fig. 7. Predicted number of proposals for different values of Council and public EU support. Mean EU Support in the Council varies from its observed minimum to its observed maximum. The scenario depicted by the dashed line has EU public support set to its observed maximum and the scenario depicted by the solid line has EU public support set to its minimum. The calculations are made setting the control variables to ‘second semester of the year’ and ‘last year of a Commission’s lifecycle’.*

TABLE 1 *Explaining the number of adopted Commission proposals*

Variable	Coeff.	St. Error	Factor change
Intercept	2.33	(0.30) ***	-
Council EU support	0.15	(0.04) ***	1.16 [1.08-1.26]
Public EU support	0.01	(0.01)	1.07 [1.00-1.02]
Semester (baseline='I')	0.13	(0.07)	1.14 [0.99-1.32]
1 <sup>st</sup> semester of a new Commission	-0.26	(0.11) *	0.77 [0.63-0.94]
Last year of a Commission	0.27	(0.08) ***	1.31 [1.13-1.53]

*Notes:* Dependent variable: number of directives proposed by the Commission in each semester from 1976.I to 2005.II. Negative binomial regression. N = 60. Standardized factor changes with 95% confidence intervals in brackets. Significance levels: \*\*\* p < 0.001 \*\* p < 0.01 \* p < 0.05.