

Hard and Soft Bargaining in the EU: Negotiating the Financial Perspective, 2007-2013

Andreas Dür
University College Dublin
Andreas.Duer@ucd.ie

Gemma Mateo González
Autonomous University Barcelona
Gemma.Mateo@uab.es

Abstract

Under which circumstances do governments in intergovernmental negotiations in the EU resort to hard bargaining and when do they opt for soft tactics instead? We present a series of hypotheses that try to respond to this question. These hypotheses suggest variation in the choice of negotiation tactics across countries. A very preliminary analysis of the negotiations concerning the EU's multi-annual financial framework for the period 2007-2013, which lasted from 2003 until 2006, allows us to examine the plausibility of these hypotheses. Future research along the lines set out in this paper is likely to contribute to the literature on international negotiations, which so far has given little attention to the determinants of negotiation strategies. The research also has the potential to shed new light on the internal workings of the European Council, an increasingly important negotiating forum in the EU.

Paper presented at the Tenth Biennial Conference of the European Union Studies
Association, Montreal, 17-19 May 2007
Panel: "Power and Negotiation in the European Council"

1 Introduction

Under which circumstances do governments resort to hard bargaining in intergovernmental negotiations and when do they opt for softer tactics instead?¹ And, are strategies purely determined by the negotiation context or is there systematic variation with respect to the choice of tactics across individual governments? Very little empirical research has been carried out on these questions so far (Odell 2002). Indeed, few hypotheses have been put forward that could be tested empirically, since most publications dealing with negotiation tactics are of a prescriptive nature (see for example, Raiffa 1982; Fisher and Ury 1981). The stated purpose of these publications is to teach negotiators to negotiate effectively – either to maximize common or individual gains – rather than to assess what tactics negotiators actually use and why.

We start filling this gap in the literature with a study of negotiation tactics in intergovernmental negotiations in the European Union (EU). In particular, we focus our research on the negotiations concerning the EU's multi-annual financial framework for the period 2007-2013 (called Financial Perspective), which started in 2003 and which were concluded at the end of 2006. A multi-annual financial framework establishes the amount to be paid by each individual member state, and the allocation of EU funds to broad policy areas. This case appears propitious for our purpose for two main reasons. First, we are interested in *intergovernmental* negotiations, and the budget negotiations come close to this ideal type – at least the intergovernmental part of the negotiations that lasts from the presentation of a proposal by the European Commission (in this case,

¹ This paper is part of a project entitled "Ireland and 'Grand Bargains' in the EU", financed by the Irish Research Council for the Humanities and Social Sciences (Government of Ireland Thematic Project Grants 2006/2007).

February 2004) until a decision is reached by the heads of state or government in the European Council (in this case, December 2005). Second, the intergovernmental negotiations for the Financial Perspective 2007-2013 extended over a substantial period of time, making it easier systematically to study negotiation tactics.

This research is highly relevant for three reasons. First, negotiations are ubiquitous in the EU (Wallace 1996: 32; Moravcsik 1998). Nevertheless, so far only relatively few studies have explicitly analyzed negotiation processes in the EU (for some exceptions, see Elgström and Jönsson 2000; Niemann 2004). A study of intergovernmental negotiations in the EU, therefore, should be of interest to scholars of European integration. Second, the research should make a contribution to the literature on international negotiations. In particular, although previous research has distinguished among different negotiation tactics (Odell 2002), little is known about the determinants of the choice of tactics. This is astonishing given that the choice of tactics may have an influence on negotiation outcomes. Power and interests are evidently the main variables explaining negotiation outcomes. Nevertheless, it seems likely that the impact of these two variables on outcomes is mediated by the strategies followed by actors in the negotiations (Habeeb 1988; Odell 2000; Elms 2005). The study of negotiation tactics that we propose in this paper may help set the stage for an examination of this link. Finally, so far few studies have analysed the empirical case of the negotiations for the EU's Financial Perspective 2007-2013, or any negotiations for a multi-annual financial framework for the EU (for exceptions, see Laffan 1997; Lindner 2006). Research that aims at filling this gap is particularly timely as member states will review the way in which they should approach future budget negotiations in 2008 and 2009.

The paper is structured as follows. In the next section, we provide a short overview of the negotiations concerning the Financial Perspective for 2007-2013 to set the stage for the analysis of negotiation tactics. In the third section of the paper, we list a series of tactics that can be used by negotiators, and distinguish them by whether they are an indication of “hard bargaining” or “soft bargaining”. We then present a series of hypotheses that link actor characteristics, negotiation phases, and levels of negotiation with the choice of either of these two broad strategies. In the last part of the paper, we use four case studies to explore ways of how to examine the hypotheses presented.

2 Background to the Negotiations over the Financial Perspective, 2007-2013

Negotiations over a multi-annual financial framework for the EU have to tackle three main questions: the overall amount that should be spent; where the money should come from; and what the money should be spent on (Begg 2005: 14). Of these three questions, the last is the most controversial one: a multi-annual framework establishes annual ceilings for all major budget headings, and thus sets the agenda for European integration for several years. The negotiations are largely intergovernmental, with the key decisions being taken in the European Council among heads of state or government (Laffan and Lindner 2006: 196). The European Commission presents the initial proposal, but the debate then shifts to the Council of Ministers, where the proposal is discussed in several working groups, with the Economic and Financial Affairs (EcoFin) and General Affairs and External Relations councils dominating the process. At the end of this intergovernmental process, the European Council has to reach a unanimous decision on the framework. The final agreement, however, is only reached after a further negotiation process involving the Council of Ministers, the European Commission, and the European

Parliament, which results in an inter-institutional agreement among the three players (Enderlein et al. 2005: 16).

The multi-annual financial framework for the period 2007-2013, the fourth in the history of the EU, was negotiated between 2003 and 2006. The process started in the European Commission, with a series of working groups discussing the main issues between April and July 2003. In February 2004, the Commission presented a first proposal for the framework, which foresaw expenditures of 1025 billion Euro (1.14 percent of the EU's Gross National Income, GNI). The Commission further specified its proposal in July of the same year, before the process shifted to the member state level. The discussions among member state governments took off under the Luxembourg Presidency in the first half of 2005, with several questions shaping the debates: how much should be spent overall, with six net contributors to the EU budget demanding a reduction of the volume to no more than 1 percent of GNI; whether to scrap the British rebate, which reduced the Great Britain's net contribution to the EU's budget; whether to revise the decisions made with respect to spending on the Common Agricultural Policy in October 2002; and how much of the money should go to the new member states. The Luxembourg Presidency presented a compromise between conflicting positions in June 2005, which had an overall volume of 872 billion Euro (1.05 percent of GNI) – 153 billion less than the Commission proposal (Ackrill and Kay 2006: 11).² The European Council of June 2005 failed to reach agreement on the basis of this proposal, however.

The negotiations continued under the Presidency of Great Britain in the second half of 2005. Not before 5 December did the British present a new proposal, which strongly reflected British interests in maintaining its rebate. The British Presidency

² The numbers given refer to appropriations for commitments.

revised its proposal once more in response to criticism from other countries, but only a German proposal finally allowed for a compromise in the European Council of December 2005. This compromise established a ceiling of €62 billion, or 1.045 of EU GNI – slightly higher than the two British proposals, but lower than the proposal presented by the Luxembourg presidency. The agreement reached by the member states, however, was rejected by the European Parliament in a crushing vote (only 76 parliamentarians supported the agreement as concluded by the European Council) in January 2006. In mid-May 2006, finally, the European Parliament accepted a revised agreement, leading to its signature on 17 May 2006.

3 A Typology of Negotiation Tactics

A negotiation strategy is a “set of behaviors”, and negotiation tactics are the “particular actions that make up a strategy” (Odell 2002: 40). Existing research has proposed different typologies of tactics in negotiations: distributive versus integrative bargaining (Walton and McKersie 1965; Da Conceição-Heldt 2006), value claiming versus value creating (Lax and Sebenius 1986; Odell 2002), bargaining versus problem solving (Hopmann 1995; Elgström and Jönsson 2000), bargaining versus arguing (Müller 2004; Kotzian 2007), and strategic action versus communicative action (Niemann 2004). Some authors take these various distinctions to be congruous, that is, they assume that they all capture basically the same basic difference. This is not necessarily correct, however (Kersten 2001). In the words of Elgström and Jönsson (2000: 686), “The correlation between egoistic concerns and a conflictual approach, and between a common interest attitude and a problem-solving approach is less than perfect.”

Rather than rely on these existing typologies, we make a distinction between two strategies: “hard bargaining” and “soft bargaining”.³ Hard bargaining is characterized by conflictual or aggressive tactics; soft bargaining by cooperative or friendly ones. By introducing our own distinction, we avoid some problems that arise when using the existing ones in an empirical study of negotiation strategies. In some distinctions, the intentions of the actors account for the main difference: are actors genuinely concerned with finding the “best” solution (communicative action) or do they strive for the best possible deal for themselves (strategic action)? And are they concerned with the common interest (value creating) or with the private interest (value claiming)? The distinction between integrative and distributive bargaining is not ideal, either. Tactics used in negotiations may at the same time be integrative (namely create value) and distributive (namely divide scarce resources). Under specific circumstances, even a threat – generally supposed to be a purely distributive tactic – may help to increase the pie that can be divided in a negotiation. Our distinction, by contrast, simply divides tactics depending on whether they are more or less conflictive (aggressive). Actors relying on soft bargaining tactics are not necessarily more concerned with the common interest than actors engaging in hard bargaining. This approach has the advantage that it allows us to move away from assumptions towards testable hypotheses about what drives the choice of tactics.

A series of tactics characterize hard bargaining (for similar lists of tactics, see Walton and McKersie 1965; Odell 2002: 49-50).⁴ First, negotiators may enter the

³ Fisher and Ury (1981: 13) also distinguish between soft and hard bargaining. Their distinction, however, is different from ours in that they assume that soft bargaining involves accepting one-sided losses, disclosing the bottom line and changing one’s position easily. In our approach, we do not make any such assumptions.

⁴ We only list tactics that are observable – there are others such as concealing information that cannot be observed.

negotiations with a very high opening demand, which clearly exceeds a realistic expectation. This is a conflictual strategy as it signals to the other side an unwillingness to compromise. Second, actors can make a strong, public commitment of not giving in, or of not accepting the addition of an issue to the agenda of the negotiations that is dear to the other side. A pledge of not moving away from a position is a particularly aggressive tactic if this position represents a high demand. By stressing the “unalterable” nature of a demand, a negotiator communicates firmness rather than flexibility. The tactic increases the costs of making a concession, as this now also includes concerns about “losing face”. In intergovernmental negotiations, one way of making such a public commitment is to emphasize the “national interest” that is at stake. Third, a negotiator may criticize the other side. Such a “shaming” strategy may include demands that the other side moves first with respect to concessions.

Fourth, the creation of a defensive coalition is a hard bargaining tactic. Such a coalition is aimed at blocking a compromise. Finally, the most aggressive tactic characterizing hard bargaining is a threat. A threat is “a message from Party announcing the intention to hurt Other if Other fails to comply with Party’s wishes” (Pruitt and Kim 2004: 71). It signals to a recipient that the sender is willing to harm the latter, unless the latter abstains from or engages in specific action. Such a threat can be expressed more or less subtly: it can be an explicit threat with a veto in intergovernmental negotiations that require unanimity, or can come as part of a statement of the type: “We do not want to make use of our veto, but if necessary, be assured that we have the capacity to block an agreement”. Preparing for the implementation of an action that can harm the other side is at the most confrontational end of negotiation tactics.

On the soft bargaining end, assuming from the beginning a flexible position that stresses the common interest in reaching an agreement is a friendly strategy. Second, also during the negotiations negotiators may publicly signal flexibility, using statements such as: “We are willing to make further concessions if...”. Third, negotiators may make conciliatory statements. Such a conciliatory statement is likely to stress the common interest in a negotiated outcome, and the preferences that one has in common with the other side. It may also involve praising the other side, and thus strengthening the other side’s position vis-à-vis domestic constituencies. Towards the end of a negotiation, a conciliatory statement may be made to help the other side save its face, for example, by defending publicly that the other side did not abandon a position, although this was the case. This tactic is also known as “cost cutting”, as it allows the other side to cut the costs of making a concession (Pruitt 1983: 168). Fourth, a friendly strategy in multilateral negotiations is to seek partners for compromise. This tactic may involve making a proposal and then meeting with a reluctant party to ask it to accept the proposal. Alternatively, key players may make joint proposals for compromise. Finally, instead of threatening, a negotiating party may make a proposal for compromise. This tactic includes inventing new offers (Fisher and Ury 1981: 41; Kersten 2001) and making several proposals, allowing the other party (parties) to voice a preference for one. It may also encompass a proposal for the addition or subtraction of issues to allow for a negotiated agreement.

Table 1: *Typology of negotiation tactics*

Hard bargaining	Soft bargaining
High opening demand	Flexible position, stressing common interest
Public commitment of not giving in	Publicly signalling flexibility
Criticize other side	Conciliatory statement
Defensive coalition	Seek partners for compromise
Threat	Proposal for compromise

In short, several tactics are associated with both hard and soft bargaining (see Table 1). Evidently, not always is the distinction between these tactics clear-cut. It may be particularly difficult to distinguish between high opening demands and more flexible proposals, and between friendly coalitions and defensive ones. Nevertheless, we hope that the distinctions are clear enough to try and tell them apart in empirical research.

4 Explaining Variation in Negotiation Strategies

Whereas a huge literature deals with the question what negotiators *should* do, only few studies advance hypotheses with the aim of *explaining* why negotiators pick one tactic or another (for an exception, see Pruitt 1983). What is more, among the few studies that empirically deal with strategies, most point to the negotiation context (highly institutionalized or not) and the type of issue that is being negotiated (regulatory versus distributive) as shaping negotiation strategies (Elgström and Jönsson 2000; Da Conceição-Heldt 2006). Following this line of reasoning, Walton and McKersie (1965: 5) argue that integrative and distributive bargaining are “rational responses to different situations”. If the nature of a problem makes bargaining a zero-sum game, actors should adopt a distributive approach, while a problem that allows for solutions that can benefit all parties calls for integrative bargaining. Our approach is different in that we ask: do different actors use different tactics in the same negotiation context? And if yes, what

explains the variation that can be observed? We propose a set of hypotheses that link actor characteristics, the phases of a negotiation, and the levels of negotiation to the choice of strategies.

H1: "Large countries, which dispose of more power resources, should rely more on aggressive tactics than small countries."

We hypothesize that large countries that dispose of greater economic and political power resources should be more likely to rely on hard bargaining. Since hard bargaining can undermine relations between two or more parties (Lax and Sebenius 1986: 34), it should be used more frequently by actors who have less to lose from such a deterioration of relations. Basically, this applies to large countries because they dispose of ample power resources. Smaller countries, by contrast, opt for soft tactics as they may feel a need to "ingratiate" themselves with the larger countries (Pruitt 1983: 175). Countries with larger power resources should also be less vulnerable to the aggressive strategies that other countries may rely on in response; for example, if the recipient of a threat decides to counter-threaten rather than comply. Indeed, the existing literature on the choice of negotiation tactics suggests that arguing – which can be viewed as a type of soft tactic – is used by the weak. In the words of one author, "If an actor has no power resources to engage successfully in bargaining, bargaining will have little or no utility" (Kotzian 2007: 85). Translated to the case of the EU's budget negotiations, this hypothesis leads us to suspect that the large three (France, Germany, Great Britain) or four (including Italy) member countries of the EU should have relied more on hard bargaining than smaller member countries.

H2: “The better the alternative to negotiated agreement of a government, the more aggressive its strategy.”

If a negotiator is concerned only with issue specific repercussions, then issue-specific bargaining power – the best alternative to negotiated agreement (BATNA) – may influence the choice of bargaining tactics. Again, the reason for this is that an actor with a good BATNA has little to lose from a breakdown of the negotiations, making threats and other aggressive moves credible. An actor may be reluctant to use her issue-specific power in that way, however, if – as in the EU – she has to engage in negotiations on other issues with the same parties. Such iterated interaction should make general power resources more important than the issue-specific BATNA. Keeping this point in mind as an alternative hypothesis, we hypothesize that in the case of the negotiations for the Financial Perspective the net contributors should have been more willing to engage in hard bargaining than the net beneficiaries, which had a worse BATNA. In 2004, and using operational expenditures only, Austria, Belgium, Denmark, Finland, France, Germany, Italy, Luxembourg, the Netherlands, Sweden, and the United Kingdom were net contributors to the EU budget (European Commission, DG Budget 2006: 138).⁵ Four of these countries made particularly large net contributions (measured as percentage of GNI): Germany (0.32 percent), Italy (0.21 percent), the Netherlands (0.42 percent), and Sweden (0.38 percent). Following this hypothesis, the approach taken by these four countries should contrast with the one taken by the new member countries, which expected to become major net beneficiaries.

H3: “Countries that face losses tend to opt for more risky, that is, aggressive strategies.”

⁵ Belgium and Luxembourg were net recipients if administrative expenditures are included.

In a recent publication, Deborah Elms (2005) proposes the hypothesis that countries that face losses should opt for more conflictual negotiation tactics than countries that face gains. This hypothesis builds on prospect theory, which proposes that losers (namely those that expect “that in the future they will be worse off than under the status quo”, Elms 2005: 11) are more risk acceptant than winners. Aggressive strategies tend to be risky: they can lead to substantial gains, but also to substantial losses. As the risk acceptance of actors increases in the face of losses, consequently, these actors should exhibit a greater willingness to use hard bargaining tactics. The expectation for the negotiations on the EU’s financial framework is that France, Great Britain, Ireland and Spain, which faced losses as a result of the negotiations – namely with respect to agricultural payments, the British rebate, and structural funds respectively – should have employed more aggressive strategies than other member countries.

H4: “The weaker the position of a government within a country, the more it will rely on hard bargaining tactics.”

Adopting a two-level perspective, one can also hypothesize that domestically weak governments should opt for conflictual tactics. Governments tend to be particularly weak if they face an election and if opinion polls for the party (parties) in power indicate losses in these elections. Whatever the reasons for its weaknesses, a feeble government will have to rely more on posturing than a strong government. Translating this reasoning to the case of the budget negotiations in the EU, the expectation is for governments that faced elections in 2005 and that expected to lose in these elections, should have relied on hard bargaining. There was a series of elections in EU member states in 2005: Denmark (8 February); Portugal (20 February); United Kingdom (5 May); Germany (18

September); and Poland (25 September). In three of those, the governments were expected to lose the elections. the Social Democratic Party in Portugal, the Democratic Left Alliance in Poland, and the Social Democratic Party in Germany were all in a weak position. We hypothesize that before the elections, the governments led by these parties should have been more likely to rely on hard bargaining than governments in other member countries.

H5: "Governments of countries with populations that are euro-sceptic should be more willing to use aggressive bargaining tactics than governments with pro-European populations."

Equally, it seems plausible that governments that believe that their constituents favour them to exhibit toughness adopt hard bargaining tactics (Pruitt 1983: 184). Governments of countries with a euro-sceptic population, consequently, should rely more on hard bargaining than governments with a generally pro-European population. In elections, the former are likely to gain more from a hard bargaining stance than the latter. They will draw an advantage from being seen as tough vis-à-vis Brussels and the EU in general. With respect to the negotiations on the multi-annual financial framework, the Spring Eurobarometers for 2004 and 2005 allow us to assess the extent to which populations in different member states were Euro-sceptic (European Commission 2004, 2005). In 2004, among the old member states, the populations of Austria, Finland, Sweden and the United Kingdom were the most Euro-sceptical ones when combining the responses to the questions on support for Union membership and benefits from EU membership. Among the new member states, the Czech Republic, Estonia, Latvia and Poland turn out to be most Euro-sceptical. In 2005, little changed with respect to this selection of countries, with the exception that the Polish population became more Euro-friendly and Cyprus

moved up into the group of Euro-sceptical countries. An alternative measure of Euro-scepticism could be the results of referendums on the Constitutional Treaty, with voters in France and the Netherlands rejecting the treaty in May and June 2005 respectively. Combining these measures, we take Austria, the Czech Republic, Estonia, Latvia, Sweden, and the United Kingdom (and to a lesser extent Cyprus, France, the Netherlands, and Poland) to be the most Euro-sceptical countries. We expect the governments of these countries to adopt more hard bargaining tactics than the governments of more Euro-friendly countries.

H6: "Old member states should be less willing to resort to hard bargaining than new member states."

Several factors suggest that the length of EU membership may influence the negotiating strategy of a country. First, friendly tactics may work particularly well if a country has sufficient expertise to make proposals for compromise. Such expertise will have to be acquired over time. Second, the length of membership may influence the degree to which officials are "socialized" into a specific EU culture (Lewis 1998). Intra-EU negotiations may be based on a specific "code of decency" (Kerremans 1996: 223), which may have to be learned first. At least for one country, this code reads: "[Do] not make enemies and ensure that you have a positive working relation with everyone" (Belgian official, quoted in Beyers 2005: 931). Such behavioural norms may develop over "many years of constant interaction" (Stone Sweet and Sandholtz 1998: 10). New members, consequently, "might have difficulties in adapting to the 'political culture' in Brussels where compromise seeking has been developed into an art" (Ungerer 1993: 82). Indeed, one permanent representative of a member country stated: "Early in our membership we acted tough and

we had these positions, ‘Others don’t like it, too bad’” (quoted in Lewis 1998: 487). Over time, EU membership may then condition “a new type of statal intercourse” (Weiler 1992: 39). For the case of the negotiations over the Financial Perspective, the prediction is for the ten new member countries, which joined the EU in May 2004 (and hence in the middle of the negotiations), to have adopted more conflictual tactics than the older member states. They should not yet have been accustomed to the EU’s “refined form of defending national interests” (Ungerer 1993: 82).

H7: “In the early stages of a negotiation, soft bargaining should dominate; in the middle stages, hard bargaining; and in the end game, again soft bargaining.”

The existing literature also includes some indications that the choice of strategy may vary across phases of negotiations (Niemann 2004). One expectation is for soft tactics to dominate in the pre-negotiation phase, when preferences are still unclear and uncertainty prevails. The main part of the negotiations may then be characterized by more aggressive tactics, and the end game of the negotiations again by softer ones. Several reasons lead to the expectation of this pattern: in pre-negotiations, negotiators tend to have ample time and therefore may be more willing to engage in a soft approach. Later, when the deadline is more clearly visible, more conflictual tactics may be more attractive. It may also be that earlier phases of a negotiation are designed to allow actors to engage in “positive coordination”, leaving “distributive bargaining”, which calls for hard bargaining, to a later stage (Scharpf 1997: 146). In the ultimate phase of a negotiation, the deadline is imminent, making the finding of a solution necessary, which in turn should make negotiators more cautious in making threats or using other confrontational tactics. The expectation for the case of the negotiations over the Financial Perspective hence is for all

countries to have adopted soft bargaining tactics during 2004 and in the European Councils in June and December 2005, while engaging in hard bargaining throughout the rest of 2005.

H8: “Debates in lower level groups should be characterized by softer bargaining tactics than ministerial-level discussions. Discussions at the level of the European Council should also be characterized by soft bargaining.”

A final hypothesis draws attention to variation in the bargaining tactics employed at different levels of a negotiation. Negotiators at lower levels may interact with each other more frequently than negotiators at higher (ministerial) level (Lewis 1998). If interaction has a socialization effect, and this socialization effect makes actors adopt more friendly tactics, than soft bargaining should dominate at lower levels of a negotiation. More specialized actors should also share expertise and a common view of a problem (Panke 2006: 366), further strengthening this expectation. The lower degree of transparency of lower level discussions (reducing the need for posturing), the higher degree of technicality, and the lower degree of politicization should all push into the same direction. Equally, at the highest level – heads of state or government in the European Council – soft bargaining should predominate as this forum is already conceptualized to resolve problems that could not be settled at a lower level. However, there is also a reason to question this hypothesis: in general, representatives may be more prone to engage in contentious bargaining than individuals negotiating for themselves (Pruitt 1983: 175). The more restricted the mandate of negotiators, moreover, the easier it should be for them to end up with hard bargaining. As put by Metcalfe (1998: 425), the alternative hypothesis then is: “Officials in working parties may be obliged to bargain harder than would ministers on the same issue”. Leaving the task of discriminating

Table 2: *Overview of the predictions for the negotiations on the EU's financial framework, 2007-2013*

Hypo-thesis	Explanatory factor	Hard bargaining	Soft bargaining
H1	Power resources	France, Germany, Great Britain (to a lesser extent Italy)	Rest
H2	BATNA	Net contributors (particularly, Germany, Italy, the Netherlands, and Sweden)	Net beneficiaries
H3	Loss expectation	France, Great Britain, Ireland, and Spain	
H4	Government strength	Portugal (until February 2005), and Germany and Poland (until September 2005)	Rest
H5	Public opinion	Austria, the Czech Republic, Estonia, Latvia, Sweden, and Great Britain (and to a lesser extent Cyprus, France, the Netherlands, and Poland)	Rest
H6	Length of membership	New member states	Old member states
H7	Phase of negotiation	Middle phase (most of 2005)	Beginning (2004) and end game (June 2005; December 2005)
H8	Level of negotiation	Council of Ministers	Council working groups and European Council

between these two hypotheses to empirical research, for the moment our expectation for the budget negotiations derived from this hypothesis is for ministers in the Council to opt for more conflictive tactics than both the experts in the working groups and the heads of state and government.

5 Tactics in the Negotiations over the Financial Perspective, 2007-2013

The previous section has showed that several hypotheses can be thought off to explain variation in the strategies adopted in intergovernmental negotiations in the EU (see Table 2). In the following, concentrating on hypotheses 1-6, which predict variation across countries, we carry out a very preliminary empirical examination of strategies in the

negotiations for the Financial Perspective, 2007-2013. The research is by no means conclusive, and solely aims at exploring the usefulness of the approach sketched out so far for empirical research. Alas, for some countries the expectations derived from the various hypotheses are contradictory, making even preliminary empirical research tricky (see Table 3 at the end of the paper). We try to overcome this problem by concentrating on countries for which one expectation clearly dominates. In selecting cases, we were also eager to have variation with respect to the main independent variables singled out above: small versus large, net payer versus net beneficiary, winner versus loser, strong versus weak government, Euro-sceptical versus pro-European population, and new versus old member state. We excluded countries that held the presidency during 2005, since holding this office should influence a country's approach to the negotiations independent of the hypotheses presented. Four countries fit these various conditions particularly well: Germany, Ireland, Poland and Spain. With variation on the independent variables, the predictions for whether they should rely on hard or soft bargaining also differ: the expectation is for Ireland and Spain to have relied on soft bargaining, and Poland and Germany to have employed hard bargaining tactics, at least until the change in governments in September 2005.

5.1 Ireland

As a small country that is a net recipient, one of the older member states of the EU, and that has a largely Euro-friendly population, the expectation derived from the above hypotheses is for Ireland to have largely relied on soft tactics. This expectation is not significantly undermined by the fact that Ireland had to expect losses from the new financial framework, as over time it would lose its status of net recipient. Ireland's EU

Commissioner for Health and Consumer Protection, David Byrne, confirms this prediction well when stating: “It must be in Ireland’s interest to be more on the generous side than not” (quoted in *Irish Times*, 11 February 2004: 21).

Indeed, throughout the negotiations the Irish government largely relied on soft bargaining tactics. Rather than starting out with a high opening demand, the Irish government showed itself to be flexible from the beginning. It did not even state a position when the Commission put forward its proposals in early 2004, a tactic that may have been influenced more by the fact that Ireland held the presidency in the first half of 2004 than the logic set out above, however. The Irish government also signalled flexibility when accepting the proposals put forward by the Luxembourg presidency in June 2005, although these proposals signified substantial cuts in the payments going to Ireland. This soft bargaining approach by Ireland was evident enough for the Prime Minister of Luxembourg, Juncker, to single out Ireland as a model for all other member states (*Agence Europe*, 16 June 2004: 8). Even after the breakdown of the negotiations during the European Council of June 2005, the Irish Prime Minister Bertie Ahern refrained from publicly criticizing Blair, who had to carry the blame for the deadlock in the negotiations. Ahern’s conciliatory statement – “I hate to see grown men bickering” (*Irish Independent*, 18 June 2005) – stood in stark contrast to the statements made by other governments, with the French President Jacques Chirac calling Blair’s stance “pathetic” (*Sunday Times*, 19 June 2005).

This does not mean, however, that Ireland relied only on soft tactics. Most importantly, its defensive coalition with France – which also encompassed a series of other countries – to protect the 2002 compromise on agricultural spending can be viewed

as hard bargaining. The Irish Minister for Foreign Affairs, Dermot Ahern, made use of this defensive coalition to push Irish interests when stating: “We have strong support for our position from France and other countries” (quoted in *Irish Times*, 17 June 2005: 14). The agricultural issue was even defined as a “national interest” (*Irish Times*, 17 June 2005: 14), on which Ireland would not accept a compromise. This issue-specific hard bargaining could indicate support for Hypothesis 3 that stresses the importance of loss aversion in shaping negotiation tactics. Moreover, Ireland was part of the “friends of cohesion” group, which brought together 17 countries in defence of the EU’s cohesion policy. There is also some indication that the Irish foreign minister was more inclined to engage in hard bargaining than the prime minister (as expected based on hypothesis 8). In the end game of the negotiations, the former clearly criticized the position of Great Britain, calling the debates “a waste of time” as long as “the elephant in the corner (Britain) hasn’t moved” (quoted in *UPI*, 25 November 2005). In short, although as expected soft bargaining dominated in the case of Ireland, in some cases the Irish government employed hard bargaining tactics.

5.2 *Spain*

Spain is a medium sized country with a generally Euro-friendly population, as witnessed by the success of the referendum on the Constitutional Treaty. It has been in the EU for two decades, and was one the largest net recipients in the previous financial framework of the EU. With only one factor pushing in the other direction – namely the fact that Spain would have to accept losses in the negotiations –, the expectation is for Spain to have assumed a soft approach. This expectation is not borne out, however. Although the initial Commission proposal was actually quite favourable to Spain (Torreblanca 2005: 19),

with spending on structural and cohesion funds from which Spain benefited to increase substantially as compared to the financial framework for 2000-2006, the Spanish government immediately qualified it as “unacceptable”. Throughout the following negotiations, it aggressively defended the position that it should receive structural funds for a sustained period of time, and that it could not become a net contributor before 2013. This position was considered as “digging-in” by observers (Missiroli 2005: 3).

To defend its position on the issue of structural funds, the Spanish tactic was to talk about the “Spanish problem”, which was defined as avoiding that Spain would be asked to pay the highest price for enlargement. The Spanish government was also eager to establish a defensive coalition. It was one of the drivers of the so-called “friends of cohesion” group, which brought together 17 countries that wanted to maintain EU spending at a level of 1.14 percent of GNI to permit for generous structural funds. Rather than signalling flexibility on that issue, in June 2005 Spain was one of only five countries that opposed the proposals by the Luxembourg presidency (together with Finland, the Netherlands, Sweden, and the United Kingdom). It upheld this stance although the Luxembourg presidency had offered an exceptional rule of another two years of structural funds to Spain (admittedly, the proposals were less generous than those of the Commission). During the British presidency, Spain continued to engage in hard bargaining. When the British presidency presented its first proposal, the Spanish government, in the form of Alberto Navarro, Spanish Secretary of State for European Affairs, again qualified it as “unacceptable” (*Agence Europe*, 8 December 2005: 6).

Only in the end game of the negotiations did the Spanish approach to the negotiations change slightly. In early December, for example, the Spanish Minister of

Economics and Vice-President, Pedro Solbes, ruled out the use of a veto when stating that “this is not the moment of vetoes” (*El País*, 6 December 2005: 3). Spain also immediately announced support for the German proposals for compromise announced shortly before the December 2005 European Council. Overall, however, contrary to the expectation derived from the hypotheses set out above, the observations indicate that Spain mainly employed hard bargaining tactics in the negotiations for the financial framework 2007-13.

5.3 *Poland*

With its highly Euro-sceptical population and weak government, we expect the new member country Poland to have relied more on hard bargaining tactics than Ireland and Spain, at least until the elections in September 2005, when the party in government experienced a crushing defeat. This expectation is only slightly attenuated by the fact that Poland could expect to be one of the main beneficiaries from a successful conclusion of the negotiations. The expectation of Polish hard bargaining is clearly borne out by the available evidence, with Poland relying on practically all of the hard bargaining tactics set out above. It joined a defensive coalition encompassing among others Belgium, Cyprus, France, and Ireland on the issue of agricultural spending (*Agence Europe*, 8 November 2005: 8). It also vigorously defended the EU’s cohesion policy. The hard bargaining tactics were used particularly after the rejection by some old member countries of the compromise proposals tabled by the Luxembourg presidency in June 2005, which had been relatively favourable to the interests of the new EU members. In the following months, together with the other Visegrád countries (Czech Republic, Hungary, and Slovakia), Poland insisted that future proposals should be close to those

that they had accepted in June 2005 (*Agence Europe*, 17 September 2005: 4). Throughout the British presidency, moreover, it emphasized that even if it was interested in a rapid agreement (as stressed by Hypothesis 2), it would not move from its position (*Agence Europe*, 13 October 2005: 9).

Both the Polish prime minister and the foreign minister used hard tactics in the run-up to the meeting of the European Council in December 2005. The prime minister, for example, dubbed the British proposals from 5 December as “unacceptable” (*Agence Europe*, 7 December 2005: 9). In another statement, he called the British proposals “fake”, leading the *Economist* to conclude that Poland was the harshest critic of the presidency’s proposals (*Economist online edition*, 19 December 2005). The prime minister also called the second British proposal “in no way satisfactory” and threatened with a Polish veto if the plan was not changed (*Financial Times*, 15 December 2005: 1; see also *El País*, 15 December 2005: 3). Similarly, the Polish foreign minister, Stefan Meller, strongly criticized the British proposals. On 15 December, he and his French counterpart used a particular hard bargaining tactic to make their case: they jointly published a letter in the *Financial Times* (15 December 2005: 18), in which they argued that the presidency’s proposals could not “become the basis of an agreement”. They pushed Great Britain to make concessions, and even threatened to use a veto if their demands were not met. They contrasted the British intransigence with their own willingness to make compromises, as illustrated by their acceptance of the Luxembourg proposals in June. On the soft bargaining side, they emphasized their continued willingness to make concessions “provided that all of us make a similar effort”.

The Polish bargaining tactics remained on the aggressive side during the final meeting of the European Council. This led British officials to state that Poland proved “a hard nut to crack” (*Financial Times*, 5 December 2005: 2). It was one of only two countries to explicitly make use of veto threats during the European Council (the other was Italy), with Poland being the more prominent one as it “constantly” referred to its veto power (*Agence Europe*, 19 December 2005: 2). In short, Poland largely relied on hard bargaining tactics. This is in line with the expectation derived from the hypotheses set out in the previous section.

5.4 Germany

The hypotheses outlined above lead to the expectation that Germany should have mainly relied on hard bargaining tactics, at least until the elections in September 2005. As a large country, which is a sizeable net contributor to the EU’s budget, and whose government had to face elections at a time when opinion polls predicted low levels of support for the main government party, Germany is nearly the ideal case (besides the United Kingdom) of a country that should have relied on hard bargaining tactics. In fact, Germany started into the negotiations with a high opening demand. As early as November 2003, the German Chancellor Gerhard Schröder warned his colleagues that Germany “should not be overburdened” (quoted in *Reuters*, 5 November 2003). The same talk also included a hardly disguised threat against Poland and Spain, the two countries that at that time blocked the negotiations on a Constitutional Treaty for the EU. Schröder stated that those governments (meaning Poland and Spain) that did not see the link between the Intergovernmental Conference and the negotiations for the Financial Perspective would “have to learn that you cannot neglect such aspects and go unpunished”. This threat came

just days after demonstrations in Germany against Schröder's domestic policies, an indication that the logic captured by hypothesis 4 (government weakness) may have been at play.

One month later, Germany was one of six net contributing countries that sent a letter to Commission President Prodi, demanding that the EU's budget should not exceed 1 percent of the EU's combined GNI. This was a high opening demand as the ceiling in the previous multi-annual financial perspective (2000-2006) had stood at 1.08 percent of GNI. Schröder was also put under pressure on that issue by one of the leaders of the opposition, Edmund Stoiber, who in January 2004 stated that Germany could not increase its contribution to the EU budget (*EUObserver*, 6 January 2004). In 2005, this competition with the opposition became even more important in shaping the government's tactics in the negotiations, leading observers to predict that Schröder would not be willing to compromise before the elections (*EUObserver*, 27 May 2005). In that stage, hard bargaining was mainly visible in German criticism of the British rebate. In March 2005, the German government even joined with the Netherlands and Sweden to write a so-called "non paper" that attacked the British budget rebate and maintained that the net contribution of the signing countries had to be reduced (*Agence Europe*, 12 March 2005: 8). Britain was not the only one to receive sharp criticisms from Germany, however: Spain's insistence on continued payment of structural funds to its regions was also constantly slated by the German government. In May 2005, for example, Germany (together with four other countries) explicitly criticized the proposals by the Luxembourg presidency to prolong payments of structural funds to Spain by two years (*Agence*

Europe, 12 May 2005: 3). At the same time, Germany entered into a defensive coalition with France to maintain the level of agricultural spending (*EUObserver*, 6 June 2005).

Against the expectation derived from the hypotheses set out above (although in line with hypothesis 8), however, Schröder was quite conciliatory just before and during the European Council of June 2005 (*Agence Europe*, 4 June 2005: 4). After having insisted on the 1 percent of GNI limit for the last one and a half years, in June Schröder suddenly announced that Germany would accept a “constructive compromise” on that issue (*Agence Europe*, 11 June 2005: 9). Basically, this signalled to other countries that Germany was willing to pay more into the budget to finance enlargement, as long as other countries would also yield. After the breakdown of the summit, Germany again assumed a more aggressive stance. Schröder talked about the “totally unacceptable attitude” (*UPI*, 20 June 2005) and the “stubbornness” (*Sunday Times*, 19 June 2005) of the United Kingdom and the Netherlands in rejecting the compromise proposal that had been on the table. This response was much more critical of the United Kingdom than the one by the Irish government (*Sunday Times*, 19 June 2005), an observation that supports our predictions. The German government also returned to public commitments of not giving in: after the elections but still before the new government was in place, it repeated that it could not make a larger contribution to the EU budget than in the previous multi-annual framework (*Agence Europe*, 28 October 2005 : 5). Together with three other net contributors (Austria, the Netherlands, and Sweden), it also insisted on the correction of disequilibria in contributions to the EU budget.

The tone significantly changed with the new government in place, however. The new German foreign minister, Frank-Walter Steinmeier, welcomed the British proposals

of 5 December as an “acceptable working basis” (*Agence Europe*, 8 December 2005: 6). The new Chancellor, Angela Merkel, also was far less outspoken than her predecessor. In a press conference, she explicitly abstained from talking about the British rebate or any other particular issue in the negotiations, stating that she did so to facilitate later compromises (*Associated Press Worldstream – German*, 8 December 2005). More significantly, just before the European Council, Germany made a decisive proposal that allowed for the conclusion of the negotiations (Szemplér 2006: 13). In the end, Germany yielded to allow for a compromise, making it the biggest net contributor relative to Gross Domestic Product.

6 Conclusion

The aim of this paper has been to analyze whether there is systematic variation in the bargaining tactics used by different member countries in EU intergovernmental negotiations, and if yes, how the observable variation can be explained. We have set out a number of hypotheses, before exploring the plausibility of some of these hypotheses in a study of the strategies used by four countries in the negotiations for the Financial Perspective 2007-2013. The empirical examination has confirmed that there is variation across countries in the bargaining tactics employed: Ireland relied more on soft tactics than the other three countries. Moreover, three of the exploratory case studies supported the expectations derived from the hypotheses. Finally, when elaborating these case studies, within-case analysis has given indications of the working of specific causal factors delineated in the theoretical part. For example, the elections in Germany clearly seem to have had an influence on Germany’s approach to the budget negotiations (supporting hypothesis 4).

The preliminary analysis has also unearthed several challenges, however, which we will have to tackle in further research on this topic. First, the case of Spain did not match expectations: that country's government relied far more on hard bargaining than we had predicted. This deviant finding may result from the assumption that we made in this paper that the individual hypotheses have approximately equal causal weight (thus neglecting the possibility that one factor that leads to the prediction of hard bargaining may outweigh several other factors that push in the other direction). In future research, we will resolve this problem by selecting cases that allow for tests of each hypothesis individually. Second, it has become apparent that the fact that countries have to react to proposals made either by the Commission or the Presidency is a confounding factor: since these proposals are not equally favourable to all member countries, some countries will be pushed to react more harshly than others, simply as a result of a lack of coincidence between their preferences and the proposals on the table. Third, so far we have ignored the strategic aspect of choosing a tactic: the choice of a specific tactic may be a response to the use of a specific tactic by another party. Finally, as this research progresses, we will have to make sure that the variation that can be seen in the choice of tactics is not driven by idiosyncratic factors, namely the different personalities of the people involved. Despite these caveats, we think that systematic research along the lines set out in this paper may provide interesting new insights into intergovernmental bargaining in the EU.

7 References

Ackrill, Robert and Kay, Adrian (2006) 'The EU Financial Perspective 2007-2013 and the Forces that Shaped the Final Agreement', Nottingham Trent University, Discussion Papers in Applied Economics and Policy No. 2006/1.

- Begg, Iain (2005) 'Funding the European Union', in *A Federal Trust Report on the European Union's Budget* (London: Federal Trust).
- Beyers, Jan (2005) 'Multiple Embeddedness and Socialization in Europe: The Case of Council Officials', *International Organization* 59 (4): 899-936.
- Da Conceição-Heldt, Eugénia (2006) 'Integrative and Distributive Bargaining Situations in the European Union: What Difference Does It Make?', *Negotiation Journal* 22 (2): 145-65.
- Elgström, Ole and Jönsson, Christer (2000) 'Negotiation in the European Union: Bargaining or Problem-Solving?', *Journal of European Public Policy* 7 (5): 684-704.
- Elms, Deborah (2005) 'How Bargaining Alters Outcomes: Bilateral Trade Negotiations and Bargaining Strategies', Institute for Defence and Strategic Studies, Singapore, Working Paper No. 83.
- Enderlein, Henrik et al. (2005) 'The EU Budget: How Much Scope for Institutional Reform?', in *European Central Bank Occasional Paper Series*, No. 27.
- European Commission (2004) 'Eurobarometer: Spring 2004', No. 61 (Brussels: European Commission).
- European Commission (2005) 'Eurobarometer 63: Public Opinion in the European Union' (Brussels: European Commission).
- European Commission, DG Budget (2006) 'Allocation of 2005 EU Expenditure by Member State' (Brussels: European Commission).
- Fisher, Roger and Ury, William (1981) *Getting to Yes: Negotiating Agreement without Giving In* (London: Hutchinson Business).
- Habeb, William Mark (1988) *Power and Tactics in International Negotiation: How Weak Nations Bargain with Strong Nations* (Baltimore: John Hopkins University Press).
- Hopmann, P. Terrence (1995) 'Two Paradigms of Negotiation: Bargaining and Problem Solving', *Annals of the American Academy of Political and Social Science* 542: 24-47.
- Kerremans, Bart (1996) 'Do Institutions Make a Difference? Non-Institutionalism, Neo-Institutionalism, and the Logic of Common Decision-Making in the European Union', *Governance* 9 (2): 217-40.
- Kersten, Gregory E. (2001) 'Modelling Distributive and Integrative Negotiations: Review and Revised Characterization', *Group Decision and Negotiations* 10 (6): 493-514.
- Kotzian, Peter (2007) 'Arguing and Bargaining in International Negotiations: On the Application of the Frame-Selection Model and its Implications', *International Political Science Review* 28 (1): 79-99.
- Laffan, Brigid (1997) *The Finances of the European Union* (Houndmills: Palgrave).
- Laffan, Brigid and Lindner, Johannes (2006) 'The Budget: Who Gets What, When and How', in Helen Wallace, William Wallace and Mark Pollack (eds) *Policy-Making in the European Union*, 5th ed. (Oxford: Oxford University Press), 191-212.
- Lax, David A. and Sebenius, James K. (1986) *The Manager as Negotiator: Bargaining for Cooperation and Competitive Gain* (New York: Free Press).
- Lewis, Jeffrey (1998) 'Is the "Hard Bargaining" Image of the Council Misleading? The Committee of Permanent Representatives and the Local Elections Directive', *Journal of Common Market Studies* 36 (4): 479-504.

- Lindner, Johannes (2006) *Conflict and Change in EU Budgetary Politics* (London: Routledge).
- Missiroli, Antonio (2005) 'Introduction', in Guillaume Durand and Corrado Pirzio-Biroli (2005) 'Financing Europe - the Budget Conundrum', *EPC Issue Paper*, No. 39, 3-5.
- Metcalf, David (1998) 'Leadership in European Union Negotiations: The Presidency of the Council', *International Negotiation* 3 (3): 413-34.
- Moravcsik, Andrew (1998) *The Choice for Europe: Social Purpose and State Power from Messina to Maastricht* (Ithaca: Cornell University Press).
- Müller, Harald (2004) 'Arguing, Bargaining and All That: Communicative Action, Rationalist Theory and the Logic of Appropriateness in International Relations', *European Journal of International Relations* 10 (3): 395-435.
- Niemann, Arne (2004) 'Between Communicative Action and Strategic Action: The Article 113 Committee and the Negotiations on the WTO Basic Telecommunications Services Agreement', *Journal of European Public Policy* 11 (3): 379-407.
- Odell, John S. (2000) *Negotiating the World Economy* (Ithaca: Cornell University Press).
- Odell, John S. (2002) 'Creating Data on International Negotiation Strategies, Alternatives and Outcomes', *International Negotiation* 7 (1): 39-52.
- Panke, Diana (2006) 'More Arguing Than Bargaining? The Institutional Design of the European Convention and Intergovernmental Conferences Compared', *Journal of European Integration* 28 (4): 457-79.
- Pruitt, Dean G. (1983) 'Strategic Choice in Negotiation', *American Behavioral Scientist* 27 (2): 167-94.
- Pruitt, Dean G. and Kim, Sung Hee (2004) *Social Conflict: Escalation, Stalemate, and Settlement*, 3rd ed. (Boston: McGraw Hill).
- Raiffa, Howard (1982) *The Art and Science of Negotiation* (Cambridge: Harvard University Press).
- Scharpf, Fritz W. (1997) *Games Real Actors Play: Actor-Centered Institutionalism in Policy Research* (Boulder: Westview Press).
- Stone Sweet, Alec and Wayne Sandholtz (1998) 'Integration, Supranational Governance, and the Institutionalization of the European Polity', in Wayne Sandholtz and Alec Stone Sweet (eds) *European Integration and Supranational Governance* (Oxford: Oxford University Press), 1-26.
- Szemlér, Tamás (2006) 'EU Budget Milestones: From Fundamental Systemic Reforms to Organised Chaos', *Papeles del Este*, No. 11, 1-20.
- Torreblanca, José I. (2005) '¿Adiós a los fondos? Claves para entender la posición de España a la hora de negociar el presupuesto de la UE para 2007-2013', Real Instituto Elcano, No. 21.
- Ungerer, Werner (1993) 'Institutional Consequences of Broadening and Deepening the European Community: The Consequences for the Decision-Making Process', *Common Market Law Review* 30 (1): 71-83.
- Wallace, Helen (1996) 'Politics and Policy in the EU: The Challenge of Governance', in Helen Wallace and William Wallace (eds) *Policy-Making in the European Union*, 3rd ed. (Oxford: Oxford University Press), 3-36.

- Walton, Richard E. and McKersie, Robert B. (1965) *A Behavioral Theory of Labor Negotiations: An Analysis of a Social Interaction System* (Ithaca: ILR Press).
- Weiler, Joseph H. H. (1992) 'After Maastricht: Community Legitimacy in Post-1992 Europe', in William James Adams (ed.) *Singular Europe: Economy and Polity of the European Community after 1992* (Ann Arbor: University of Michigan Press), 11-41.

Table 3: Predictions about variation across member states

	Be	Cz	Dk	De	Ee	El	Es	Fr	Ie	It	Cy	Lv	Lt	Lu	Hu	Mt	Nl	At	Pl	Pt	Si	Sk	Fi	Se	Uk
H1	S	S	S	H	S	S	S	H	S	?	S	S	S	S	S	S	S	S	S	S	S	S	S	S	H
H2	?	S	?	H	S	S	S	?	S	H	S	S	S	S	S	S	H	?	S	S	S	S	?	H	?
H3	S	S	S	S	S	S	H	H	H	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	H
H4	S	S	S	H	S	S	S	S	S	S	S	S	S	S	S	S	S	S	H	H	S	S	S	S	S
H5	S	H	S	S	S	S	S	?	S	S	?	H	S	S	S	S	?	H	?	S	S	S	S	H	H
H6	S	H	S	S	H	S	S	S	S	S	H	H	H	S	H	H	S	S	H	S	H	H	S	S	S

Note: S=soft bargaining; H=hard bargaining; ?=intermediate case.