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# The European Union and International Outcomes

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Analysts of the European Union (EU) and international bargaining have generally failed to appreciate how the shift within the EU from unanimity to qualified majority voting has affected European bargaining positions and international outcomes.<sup>1</sup> I analyze the international effects of changes in EU decision-making rules with a simple spatial model and assess the utility of the model in two cases of environmental bargaining that span the entry into force of the Maastricht Treaty. The EU can decisively shape international outcomes by concentrating the weight of its fifteen member states on a single substantive position and rendering that position critical to any internationally negotiated agreement. The findings generalize to numerous areas of EU external relations and suggest that analysts should attend specifically to the EU and more generally to domestic and regional institutional factors in explaining international bargaining outcomes.

## The EU and International Outcomes

The EU affects international outcomes by concentrating the weight of its fifteen member states on a single substantive position (the EU “common position”) and rendering that position critical to any internationally negotiated agreement. Critical (also called pivotal) positions are those that, when they defect from a coalition, cause that coalition to become losing. I break down my argument into three analytical stages. First, I demonstrate the importance of decision-making rules to the spatial location of the EU common position, holding constant other factors such as actors’

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1. A notable exception is Sophie Meunier. Meunier 1998.

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preferences and amendment rules. This EU common position enjoys the bargaining weight (resources) of all EU member states when it confronts other positions in the international arena. Second, taking this EU common position and the preferences of third parties as given, I examine international decision-making rules and preferences and account for tendencies in the spatial location of international outcomes. Third, I assess the distance between the observed international outcome and outcomes that would have occurred if the EU were absent and its member states were international free agents or if the EU operated under different decision-making rules. I ascribe the differences between observed and counterfactual international outcomes to variations in EU decision rules.

### *The EU Common Position*

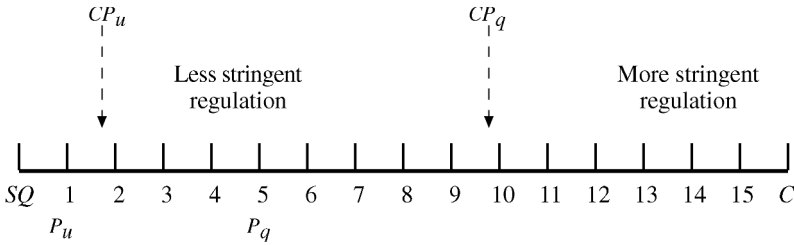
The EU acts on behalf of its member states whenever an issue to be negotiated internationally falls under EU competence. Member states cannot legally defend their own preferences in international negotiations on such matters; instead, they must cast their lot with the collectively defined EU common position. Articles 113 and 228 of the Treaty of Rome lay out the procedures for most EU activity in the international political economy.<sup>2</sup> First, the Commission of the European Communities proposes international negotiations and drafts a mandate on the basis of which it will negotiate. The EU Council of Ministers then debates and can amend the Commission proposal by unanimous agreement. It adopts a common position either by unanimity or qualified majority vote (QMV), depending on the treaty article and the substantive area addressed. The Council authorizes the Commission to negotiate and oversees its agent's activities through a special committee of member state representatives. The Commission negotiates and the Council ratifies the agreement by the same decision-making rules used in the adoption of the common position.

To understand the content of EU common positions, I employ a simple spatial representation of EU bargaining.<sup>3</sup> As shown in Figure 1, I portray the Council as a body of fifteen member states, arrayed equidistant along a single choice dimension (here, level of environmental regulation) according to the distance of their most-preferred policy (ideal point) from the status quo policy (SQ). The Commission (C) has monopoly power of initiative over measures to be considered by the Council. I ascribe far-right preferences to the Commission, not because this always applies, but for two different reasons. First, it simplifies the exposition. Second, although Commission preferences surely vary from issue to issue and from case to case, it seems reasonable to expect that the Commission will seek to increase the EU-level regulation that it is charged with administering and monitoring.<sup>4</sup> I assume single-peaked preferences, meaning that for every actor, the utility of an outcome decreases with its

2. Entry into force of the 1997 Amsterdam Treaty will change the numbering of these provisions to Articles 133 and 300, respectively.

3. For useful introductions, see Strom 1990; and Shepsle and Bonchek 1997, 82–136. For applications to the EU, see Tsebelis 1994; Garrett 1995; Schneider 1995; Garrett and Tsebelis 1996; and Scully 1997.

4. See the discussion in Pollack 1996a, 3–5.



**FIGURE 1.** EU common positions under unanimity ( $CP_u$ ) and qualified majority voting ( $CP_q$ ).  $SQ$  is status quo policy;  $C$  is the Commission;  $P_u$  is pivotal member under unanimity;  $P_q$  is pivotal member under QMV.

distance from the actor’s ideal point. I also assume that all actors favor regulation at least as stringent as current EU policy and that the status quo constitutes the default outcome, prevailing in the absence of a negotiated agreement. These specifications permit assessment of the importance of decision-making rules to the content of EU common positions.

**Unanimity.** Unanimity implies that every member can veto proposed changes to the status quo. The Commission proposes, and members can amend or adopt proposals unanimously. Under unanimity, bargaining power redounds to those most willing to veto proposed changes to the status quo. Because the opportunity cost of the status quo is lowest for player 1, this player is the pivotal member ( $P_u$ ) of the Council in the unanimity case. It will not accept any outcome at or to the right of player 2’s ideal point because such outcomes render it absolutely worse-off than it would be under the status quo, which it is in a position to achieve with its veto. Any player can propose the point just to the left of player 2’s ideal point, which they all prefer to player 1’s ideal point and to the status quo. Because this point ( $2 - \epsilon$ ) makes player 1 slightly better off than it would be under the status quo, it accepts the proposal, which becomes the EU’s common position ( $CP_u$ ) for the upcoming international negotiation.

**Qualified Majority Voting.** Under QMV, proposals must receive a qualified majority of approximately 70 percent of member states’ population-weighted votes to pass, which I portray here as eleven-fifteenths of the Council members.<sup>5</sup> Given the arrangement of preferences in Figure 1, the Commission prefers a far-right outcome, but no winning coalition can form in the absence of player 5. This player is therefore pivotal under QMV ( $P_q$ ) and its ideal point delimits the range of acceptable outcomes. Spe-

5. Successive enlargements have changed the precise percentage of votes constituting a qualified majority. Currently, sixty-two of eighty-seven votes (71.3 percent) constitutes a qualified majority, and votes are distributed as follows: France, Germany, Italy, and the United Kingdom, ten votes each; Spain, eight votes; Belgium, Greece, Netherlands, and Portugal, five votes each; Austria and Sweden, four votes each; Denmark, Finland, and Ireland, three votes each; Luxembourg, two votes. For details, see Hosli 1996, tab. 1, 264.

cifically, it will veto any proposal making it absolutely worse off than the status quo, which here corresponds to any point at or to the right of player 10's ideal point. Where  $\varepsilon$  signifies a very small distance, at least a qualified majority of members would accept any common position ( $CP_q$ ) within the range  $SQ + \varepsilon \leq CP_q \leq 10 - \varepsilon$  (at or between the points just to the right of the status quo and just to the left of player 10's ideal point). With far-right preferences, the Commission will propose at  $10 - \varepsilon$ , which becomes the EU common position, supported by eleven-fifteenths of the Council in a paired contest against the status quo. In general, under QMV the EU common position will lie at the Commission's ideal point when that point falls within the qualified majority and will lie at the limits of what the qualified majority will accept when the Commission has extreme preferences.

Because of the constancy of other factors in the model, variations in rules account for the predicted distance between the qualified majority and unanimity common positions ( $CP_q - CP_u$ ). I hasten to note that predicted outcomes would vary with changes in the location of the status quo,<sup>6</sup> the distribution of member state and Commission preferences,<sup>7</sup> the availability and sequencing of amendment proposals,<sup>8</sup> and many other factors.<sup>9</sup> To take just one example, in the unlikely case that Commission preferences fell between the status quo and player 1's ideal point, player 1's ideal would constitute both the unanimity and the qualified majority outcome. In addition, compromises, logrolling, side payments, or other bargaining behavior outside the model may result in outcomes different from the predicted points. I have not attempted to account for the influence of all of these factors. Rather, I have chosen to retain the simplicity of the one-dimensional spatial model as specified and to focus exclusively on the potential effect of variations in decision-making rules, which constitutes the empirical core of the article. The model permits first-cut predictions of the content of policy, which may constitute the null hypothesis for approaches examining the effects of other bargaining dynamics.<sup>10</sup> In summarizing EU effects on international outcomes later, I therefore speak in terms of tendencies rather than point predictions. Specification of these EU effects requires consideration of the international context within which EU common positions operate.

### *International Context*

Internationally, the combined weight of the member states backs the EU common position. Except for the unlikely situation in which EU member states have identical prior preferences, the substantive position defended by the EU will be more heavily weighted internationally than it would have been in the absence of the EU. Where member state preferences diverge at all, only some fraction of them would have most preferred the eventual EU common position had they been free agents. Accordingly, the EU common position gains weight in the international negotiation. The positions

6. See Romer and Rosenthal 1978; Ostrom 1986, 12; and Scharpf 1988, 257.

7. Pollack 1997, 123.

8. See Baron and Ferejohn 1989; and Pollack 1996b.

9. I would like to thank John Wilkerson for emphasizing these points.

10. Cooter and Drexler 1994, 314, 324.

that free-agent member states would otherwise have supported lose weight internationally.

When will changes in the relative weight of (resources backing) different positions translate into changes in relative power, defined here as the ability to influence outcomes? The answer derives from an analysis similar to the one presented for the EU, albeit one capturing the institutional and political realities of international, rather than EU, bargaining. I do not represent the analysis graphically, but simply describe the relevant features of the international context.

Three main decision-making rules tend to characterize international negotiations: some form of majority voting, unanimity, or consensus decision making. Under the first rule, majority voting, enactment of a measure requires positive agreement by some predetermined threshold of states. Voting can follow the principle of “one state, one vote” or use a weighting scheme such that states have different numbers of votes as a function of their deemed importance, material attributes, or some other consideration.<sup>11</sup> Here, the relevant currency is votes, and the EU common position has the summed voting weight of all EU members. Under the second rule, unanimity, all parties must assent to any change in the status quo. Here, as in the EU, the relevant currency is the relative ease with which an actor can refuse agreement in favor of the status quo. Those with ideal points close to the status quo have the least incentive to accept changes to it (the opportunity cost of the status quo is low), and so they are better able to dictate the terms of such changes.<sup>12</sup> Under the third rule, consensus, certain states whose positions contradict the “sense of the meeting” can be overridden.<sup>13</sup> (I do not address consensus decision making in the case of the EU because of the singular importance of the shadow cast by the prospect of the vote or the veto.<sup>14</sup>) Although international consensus decision making is not the same as unanimity, more important players will likely wield a veto. The determinants of importance vary, and the relevant currency may be material power, reputation, market share, or some other factor.

### *Assessing Variations in International Outcomes*

Under different decision-making rules, different policy positions become pivotal and define the EU common position. EU common positions, in turn, may or may not be pivotal internationally. Analyzing the ways in which EU rules shape the content of common positions and the ways in which EU common positions, with the weight of fifteen states, differentially shape international bargaining outcomes offer a rough measure of EU effects on international outcomes. Two elements figure centrally here. First, would the substance of the EU position have been pivotal either in the absence of the EU or under a different set of EU rules? Either of these can serve as a baseline expectation against which to measure the second element, the actual power of a

11. See Jenks 1965; and Zamora 1980.

12. Moravcsik 1993, 498–501.

13. See Buzan 1981, 326–27; and Zamora 1980, 568, 574 n. 30.

14. See Weiler 1991, 2461; and Wallace 1990, 222. See also, however, Wessels 1991, 147.

**TABLE 1.** *Decision-making rule combinations and the predicted effect of the EU on international bargaining outcomes*

<i>EU decision-making rule</i>	<i>International decision-making rule</i>		
	<i>Unanimity</i>	<i>Consensus</i>	<i>Majority vote</i>
Unanimity	No effect	Tendency to drag international outcomes toward status quo, since EU may add sufficient bargaining weight to its lowest-common-denominator position to render it a de facto international veto position	Tendency to drag international outcomes toward status quo, since EU may add sufficient voting weight to its lowest-common-denominator position to render it a formal international veto position
Qualified majority vote (QMV)	Tendency to push international outcomes away from the status quo, since EU members who would have been international veto players as free agents lose “voice” by virtue of EU membership	Tendency to push international outcomes away from the status quo, since EU may add sufficient bargaining weight to its (revisionist) common position to render it a de facto international veto position	Tendency to push international outcomes away from the status quo, since EU may add sufficient voting weight to its (revisionist) common position to render it a formal international veto position

position the weight of which EU institutional dynamics have altered. Comparing these measures provides a gauge of EU effects on international outcomes.

The direction and logic of hypothesized EU effects on international outcomes varies with the precise combination of EU and international rules. Six such combinations result from the analysis. Generally, given the preceding assumptions and specifications, EU unanimity rules will tend to drag international outcomes toward the status quo, whereas EU QMV rules will tend to permit more revisionist international outcomes (Table 1).

The first combination, unanimity–unanimity, straightforwardly predicts zero EU effect on international outcomes.<sup>15</sup> If the EU lowest-common-denominator position also represents the international lowest-common-denominator position, the member state(s) holding that position would have defined the international bargain with or without the EU. The EU cannot lower the international lowest common denominator under international unanimity rules. On the other hand, if the position shaping the EU common position is not the international lowest common denominator, it cannot affect international outcomes with or without the EU.

In the second combination of EU unanimity with international consensus decision-making rules, the EU will tend to drag international outcomes toward the status quo

15. I assume that all EU member states would have participated as free agents in the international negotiation in the absence of the EU.

by affording EU lowest-common-denominator positions greater international leverage than they would have enjoyed in the absence of the EU. This is especially likely where small or inconsequential EU member states constitute the EU lowest common denominator. Acting as free agents, they would likely be unable to block an international consensus. With the weight of fifteen, including such large states as Germany, the United Kingdom, and France, they should be better able to block an international consensus or forge one on their own. The third combination, EU unanimity and international majority voting, operates almost identically, except that votes rather than prestige or some other subjective factor constitute the currency of the international bargain.

Where the EU decides by qualified majority and where the Commission has at least moderately revisionist preferences, international outcomes will tend to be more revisionist. In the fourth combination, EU QMV with international unanimity, a position that would have been the international lowest common denominator may be outvoted in the EU and the member holding it may be unable to defend its own preference. The opposite clearly also applies: revisionist EU positions may be better able to shape international outcomes, but only if they continue to represent the international lowest common denominator. This is more likely as the number of interlocutors decreases—for example, in bilateral bargaining. A similar logic characterizes the fifth combination (EU QMV and international consensus). Under international consensus, only large free-agent states might decisively shape the international outcome. If they are EU revisionists, the EU will make no difference, adding weight to an already critical position. If they are closer to the status quo, they may be outvoted in the EU. Not only will the EU common position be relatively revisionist and constitute a veto position in the international consensus negotiation, but also less revisionist potential veto players (the large EU member states) cannot express their own preferences. Similarly, in the sixth combination (QMV and international majority voting), the revisionist EU common position may enjoy sufficient international votes to constitute an international blocking or winning coalition, or a critical member thereof. In either case, it would be able to decisively shape the international outcome.

### *Case Selection*

In the following sections, I probe the expectations developed earlier by examining environmental bargaining over international ozone layer protection and hazardous waste trade. I explore these areas because they constitute important negotiations within ongoing international regimes and because they span the 1 November 1993 entry into force of the Maastricht Treaty, which changed the environmental decision-making rule in the EU from unanimity to QMV. Each case contains two observations (pre- and post-Maastricht) that differ in the EU decision-making rules. These variations can reveal how different combinations of EU and international rules alter international outcomes. Following “comparable cases” or “most similar systems” design criteria, I have selected cases that are as comparable as possible on all attributes except the EU decision-making rule, thereby minimizing the confounding effects of

variations in other factors such as preference distributions.<sup>16</sup> The expectation, in Peter Gourevitch's words, is that "different institutions yield different results out of the same set of preferences."<sup>17</sup> Across the cases, I achieve measurement against two different baselines, one comparing unanimity and QMV situations (ozone) and the other comparing a member state free-agent situation with a QMV situation (hazardous waste). In the cases, negotiations concerned both the timing and depth of regulation. The extremely high correlation of positions on these issues justifies consideration of the single choice dimension of regulatory stringency. The cases permit assessment of the empirical utility of the spatial model as well as the broader claim of the effects of EU rules on international outcomes.

## International Ozone Layer Protection

The EU has been a prime mover, for good and for ill, in international ozone politics since global negotiations opened in 1982. In 1985 it signed the Vienna Convention for the Protection of the Ozone Layer, in 1987 it signed the Montreal Protocol to the Convention, and in 1988 it ratified and enacted implementing legislation for both treaties. The observations presented here involve Meetings of the Parties to the Montreal Protocol. Parties can amend the protocol by two-thirds vote of those present and voting or adjust it through a concurrent voting system comprising two-thirds of the voting parties and 50 percent of the consumption of the controlled substance in question. Both the convention and the protocol call for the use of consensus where possible, specifying voting as a measure of last resort. In both cases presented here, consensus procedures operated internationally.

### *Copenhagen, 1992*

The Fourth Meeting of the Parties to the Montreal Protocol took place in Copenhagen in November 1992. Because the Maastricht Treaty, which introduced QMV into EU environmental policymaking, had not yet entered into force, the EU decided its common position by unanimity. In this (EU) unanimity- (international) consensus situation, negotiations focused both on controlled substances (such as chlorofluorocarbons, CFCs) and on the introduction of new control measures for other ozone depleters such as methyl bromide and hydrochlorofluorocarbons (HCFCs).<sup>18</sup> I examine only the methyl bromide negotiations.

Methyl bromide is an ozone-destructive chemical used in the agricultural sector as a soil fumigant. On the question of whether or how much to control this substance, Greece was the EU lowest common denominator. Although all eleven of its EU partners expressed some willingness to freeze, reduce, or eliminate the use or produc-

16. See Przeworski and Teune 1973; and Lijphart 1975.

17. Gourevitch 1996, 350.

18. Rowlands 1993.



tion of methyl bromide, differing only in the degree of stringency they would support, Greece resisted listing the chemical as a controlled substance and calling for a freeze in its production and use.<sup>19</sup> After lengthy Council debate in the autumn of 1992, France offered a compromise proposal according to which the EU would support adding methyl bromide to the controlled substances list of the protocol and freezing production and consumption at 1991 levels by 1995. This proposal sought to bridge the gap between Greece and the next-most reluctant Council members, all Mediterranean states. Greece agreed to the proposal, continuing to refuse any binding timetable for reducing or eliminating the substance.<sup>20</sup> The EU negotiating mandate prepared for the Copenhagen meeting enshrined this compromise.<sup>21</sup> Greece's ideal point decisively constrained this outcome, which represents minimal movement away from the status quo.

Internationally, Israel and a handful of less developed countries (LDCs) joined the EU in resisting stringent methyl bromide regulation. Given that the ozone regime tends to establish different levels of regulation according to levels of economic development, LDC resistance to cutting methyl bromide would likely not have impeded developed countries from adopting stringent measures applicable only to them. In addition to numerous northern EU members who had no voice in the international negotiations, the United States strongly opposed the minimalist EU position.<sup>22</sup> The United States had committed itself to eliminating methyl bromide production and consumption under its 1990 Clear Air Act, and in Copenhagen it exerted considerable pressure for a total methyl bromide phaseout by the year 2001. The Copenhagen outcome on methyl bromide, however, reflected the EU common position: the parties listed methyl bromide as a controlled substance, agreed to freeze its consumption and use at 1991 levels by 1995, and established no binding timetable for eliminating the substance.<sup>23</sup>

I argue that, on its own, the Greek position would not have impeded more stringent developed country action on methyl bromide. With the international weight of all twelve EU members, Greece's minimalist position became internationally critical, and it prevented a more progressive developed country consensus from forming.<sup>24</sup> Thus, in this unanimity-consensus situation, EU rules served to pull the international outcome toward the status quo. Failure to win agreement on this point was a significant setback for the United States, and a bloc of industrialized countries, including numerous EU members, would likely have moved forward with "minilateral" methyl

19. See Council Doc. 8730/92 ENV 221, 24 September 1992; Council Doc. 8937/92 ENV 231, 30 September 1992; and "Decisions for Environment Ministers on EC Ozone Stance," Reuters, 15 October 1992.

20. See Council Doc. 9123/92 ENV 242, 9 October 1992; and "EC to Push for Methyl Bromide Controls, May Further Accelerate CFC Phaseout," *Environment Watch—Western Europe*, 23 October 1992.

21. "Environment: CFCs to Be Phased Out by January 1, 1996," *European Report*, no. 1816, 30 November 1992.

22. See "Large Hole in the Ozone Agreement," *New Scientist*, 28 November 1992, 5; and "Ozone Layer Left at Risk by New Global Agreement," *ENDS Report*, no. 214, November 1992, 14.

23. UNEP/OzL.Pro.4/15, 25 November 1992.

24. Greenpeace International Press Release, "Methyl Bromide Dispute Blocks Ozone Layer Talks," 24 November 1992.

bromide restrictions but for the minimalism of the (Greek-constrained) EU common position.<sup>25</sup>

### *Vienna, 1995*

The Seventh Meeting of the Parties to the Montreal Protocol took place in Vienna in December 1995, ten years after signature of the original ozone treaty in that city. With the entry into force of the Maastricht Treaty in 1993, the EU decision-making rule in environmental negotiations changed to QMV, whereas the ozone regime still operated by consensus. Potential controls of methyl bromide and HCFCs dominated the 1995 agenda. Of the two, methyl bromide proved more contentious.<sup>26</sup> Numerous northern EU member states and the Commission sought to enact stringent international methyl bromide controls, but they met with stiff resistance from the EU's Mediterranean bloc.<sup>27</sup>

In the EU, revisionists Denmark, Austria, Finland, Sweden, Germany, and the Netherlands sought a total phaseout by the year 2001. Indeed, the latter two had already banned agricultural use of methyl bromide (its predominant application) in domestic legislation.<sup>28</sup> Middle-of-the-road players Belgium and the United Kingdom sought a 50 percent reduction by 2001. With the remaining member states wavering, the "go-slowest" members remained Greece (with five votes in the Council) and Council president Spain (eight votes), which sought to minimize any reductions and extend any schedule according to which they would take place. However, because QMV applied in the definition of the EU common position, and because therefore they could not block more stringent regulation, the minimalists had to compromise in order to gain the support of Portugal (five votes) and France (ten votes). This group was able to agree to a 50 percent reduction in methyl bromide by 2005 and now constituted a veto coalition, comprising twenty-eight votes where twenty-six sufficed to block common measures.<sup>29</sup> Finally, on 6 October 1995, the Council adopted a mandate calling for a 25 percent reduction by 1998 and a 50 percent reduction (on 1991 levels) by 2005. This reflected the thrust of the blocking coalition's compromise, yet went considerably beyond what the most reluctant members had wanted. Although the Council paid lip service to the "ultimate objective of the elimination" of methyl bromide, it refused to commit decisively to this goal. Instead, it vaguely

25. See "Nations Agree to Cuts in Production of Methyl Bromide, Faster CFC Phase-Out," *International Environment Reporter*, 2 December 1992, 770; and "Large Hole in the Ozone Agreement."

26. Krueger and Rowlands 1996, 246.

27. See Commission of the European Communities, "Hole in the Ozone Layer: Action is Needed Now!" press release IP 95-973, 13 September 1995; "No Deal Ready on HCFC and Methyl Bromide Proposal," *Reuters Textline Western Europe*, 1 October 1993; "Environment: Four Member States Join Forces Against Ozone Layer Measures," *European Report*, no. 1890, 2 October 1993; "No Council Deal on HCFC, Methyl Bromide Proposal," *Reuters Textline Western Europe*, 5 October 1993; "Environment Council: Limited but Safe Progress on Waste," *European Report*, no. 1892, 9 October 1993; and Debates of the European Parliament, no. 4-453, 16 November 1994, 92-96.

28. "Ozone Layer: Bjerregaard Calls for More Action on Ozone Depletion," *Europe Environment*, no. 461, 19 September 1995.

29. "EU States Clash on Montreal Protocol Ozone Emission Norms," *European Report*, no. 2069, 23 September 1995.

favored it in the future but only to the extent that substitutes were available and scientific evidence supported such action.<sup>30</sup>

The international context at Vienna in 1995 was similar to 1992. Again, countries' level of economic development differentiated the negotiations. Because levels of developed country and LDC regulation remained largely unlinked, I deal only with the relevant (developed country) bargaining here.<sup>31</sup> Consensus decision making still operated.<sup>32</sup> The United States, which produced a third of the world's methyl bromide but had tied its own hands with the 1990 Clean Air Act, still supported a 2001 elimination date.<sup>33</sup> EU minimalists "balked at any talk of total elimination" of methyl bromide, and EU revisionists favored the U.S. position.<sup>34</sup> In Vienna, developed countries agreed to a 25 percent reduction of their production and consumption of methyl bromide by 2001, a 50 percent reduction by 2005, and a complete phaseout by the year 2010 with the possible exception of critical agricultural uses. Although northern EU member states still expressed dissatisfaction with the result, the total phaseout agreement represented significant progress relative to Copenhagen and indeed went further than the EU blocking coalition had wanted.<sup>35</sup>

## International Hazardous Waste Trade

Thirty-five states and the EU signed the Basel Convention on Transboundary Movements of Hazardous Wastes and Their Disposal in March 1989. The Convention's rules of procedure specify consensus as the preferred mode of decision making. If consensus fails, parties can make decisions by a two-thirds vote of those present and voting (that is, not abstaining), following the concept of one party, one vote.<sup>36</sup>

The most contentious issue throughout the history of the regime has been the stringency of controls on waste shipments, roughly split along North–South lines. LDCs have generally sought a total ban on hazardous waste shipments from OECD (Organization for Economic Cooperation and Development) to non-OECD coun-

30. See Council Doc. 10482/95 ENV 242, 10 October 1995; Council of Ministers Press Release PRES 95-275, 6 October 1995; and "Ministers Tighten Position on Ozone Depleters," *ENDS Report*, no. 249, October 1995, 36–37.

31. This is not to say that all of the issues dealt with at Vienna were taken in isolation, only that the developed and developing country methyl bromide cuts were not linked. Indeed, LDC cuts were tightly linked to multilateral funding, but these bargains are outside the scope of this article.

32. "Global Deal Appears Fixed on Ozone Depletion," *Reuters European Community Report*, 8 December 1995.

33. "Protection de la couche d'ozone: l'introuvable consensus," Agence France Presse, 3 December 1995.

34. See "Environment: Positions on Ozone-Depleting Substances Clarified," *European Report*, no. 2090, 6 December 1995; "Ozone: les ONG dénoncent la position des États-Unis et de plusieurs pays de l'Union Européenne," Agence France Presse, 30 November 1995; "Environnement: Les Positions se précisent sur les substances qui détruisent l'ozone," *Europolitique*, no. 2089, 2 December 1995; and "La communauté internationale divisée sur l'interdiction du bromure de méthyle," Agence France Presse, 5 December 1995.

35. See "Protection de la couche d'ozone: bras de fer entre les États-Unis et l'UE," Agence France Presse, 5 December 1995; and "Compromis possible à Vienne sur le bromure de méthyle malgré les divisions," Agence France Presse, 6 December 1995.

36. UNEP/IG.80/3, Art. 17, para. 3.

tries. Developed countries have generally supported restricting shipments of waste for final disposal but allowing shipments of waste for recycling or reuse.<sup>37</sup> The EU reached political agreement on legislation implementing the Basel Convention in October 1992 and finalized it by enacting the Waste Shipment Regulation in February 1993.<sup>38</sup> The regulation forbade exports to poorer countries of waste for disposal but minimally regulated shipments of waste destined for recycling. The observations presented here introduce variation in the EU decision-making rule while attempting to control for changes in preferences and other factors.

### *Piriapolis, 1992*

The First Conference of the Parties (COP-1) of the Basel Convention took place in Piriapolis, Uruguay, in November–December 1992. Because the EU regulation implementing the convention had not yet entered into force, and because the ban issue was not one that the Commission expected to lead to any decisions at the conference, the Commission sent only two officials to the meeting, and they had no formal negotiating mandate.<sup>39</sup> The EU had no competence to act on the ban question. In this situation, member states acted as de facto free agents, only loosely bound to respect the October political agreement under Article 5 of the Rome Treaty, which calls for external unity and loyalty to Community powers.<sup>40</sup> Britain and Germany fell staunchly on the side of the United States, Canada, and Japan, as well as other industrialized countries in the camp opposing a total ban on OECD to non-OECD waste shipments, and only reluctantly supported a ban on shipments of waste for final disposal. Denmark, on the other hand, firmly and vocally supported a total ban. At the end of the Piriapolis meeting, Denmark and other Nordic states supported a Swiss text calling for a total ban. Against the opposition of the other industrialized nations, including the United Kingdom and Germany, and under the operative consensus rules, they could not pass the measure.<sup>41</sup> The outcome at Piriapolis broadly favored the ban-opposing camp, simply “requesting” that waste exporters cease their shipments of waste for disposal and taking no firm stance on waste for recycling.<sup>42</sup>

37. See Van Aelstyn 1992; and Miller 1995, 87–107.

38. On the October decision, see Bull. EC 10-1992, point 1.3.99, 50–51; “Full Details on Waste Shipment Regulation,” *European Report*, no. 1806, 24 October 1993, IV/17. See also Council Regulation (EEC) no. 259/93, 1 February 1993, on the supervision and control of shipments of waste within, into, and out of the European Community, OJ L 30, 6 February 1993.

39. Interviews by the author with officials from the Commission of the European Communities, Directorate-General XI (Environment), 24 and 31 July 1997, Brussels, Belgium.

40. See Van der Mensbrugge 1987; and Temple Lang 1990. Note that Article 5 will become Article 10 under the post-Amsterdam consolidated treaty.

41. Puckett 1994. However, the ban issue was linked to the issue of ratification of the convention. Ban proponents failed to push hard for a total ban for fear that it would cause the main waste exporters such as the United States, Japan, and the EU not to ratify the convention. This element of linkage, present in 1992 but not in 1994, obscures somewhat the operation of institutional variables. See “‘Business as Usual’ for Traders in Toxic Waste,” *New Scientist*, 12 December 1992, 9.

42. “Basel Convention Parties End Meeting Without Call for Total Ban on Toxics Trade,” *International Environment Reporter*, 16 December 1992, 807.

Assessment of whether the EU minimalists critically shaped this outcome would be purely speculative, and I avoid it here. However, revisionist EU member states such as Denmark clearly were unable to impose their preferred outcomes in Piriapolis. Acting as free agents, they were unable to shape a text to their liking. Ultimately, Denmark reluctantly agreed to a vague EU declaration suggesting that parties put off the ban issue, study it during Denmark's 1993 EU presidency, and revisit it at the next conference of the parties.

### *Geneva, 1994*

The EU exhibited minimal unity at COP-1, with the United Kingdom and others arguing against stringent regulation, and Denmark pushing for a total North–South waste shipment ban.<sup>43</sup> Between COP-1 and the Second Conference of the Parties (COP-2), held in Geneva in 1994, preferences remained largely constant. Denmark's efforts at redefining EU policy while it held the EU Council presidency during the first half of 1993 met with strong resistance and resulted in no change in the EU common position.<sup>44</sup> In January–February 1994, Denmark broke ranks with the EU position and submitted an amendment to the Secretariat of the Basel Convention that called for a ban on all waste shipments from OECD to non-OECD countries. It rescinded the amendment after threats from the Commission and modest movement of the informal EU common position in the direction of limiting exports of waste for recycling.<sup>45</sup>

In mid-March 1994, the Commission's draft EU common position on recyclable waste exports to non-OECD countries promoted an "opt-in" policy, forbidding such shipments unless the potential recipient country registered itself on a special list and indicated its willingness to receive them.<sup>46</sup> The Commission quite consciously sought a middle ground between the extremely polarized positions both in the EU and in Geneva.<sup>47</sup> Denmark worked behind the scenes to undermine this median position, however, and after continuing its lobbying with the less-developed countries in the Group of 77 (G-77), Greenpeace, and others, it had EU support from Greece, Ireland, Italy, Luxembourg, Portugal, and Spain. According to Greenpeace, these countries had always supported the ban but had previously been reluctant to reveal their true

43. See "'Business as Usual' for Traders in Toxic Waste." and Puckett 1994, 55.

44. See "Europe's Green Channel for Toxic Waste," *New Scientist*, 13 March 1993, 13; "Lack of Information Hampers Progress of Danish Waste Exports Ban Initiative," *Environment Watch-Western Europe*, 16 July 1993, 3; and "Ban on Exports of Hazardous Waste to Developing Countries in Sight," *European Report*, no. 1846, 24 March 1993, IV/12.

45. Interview by author with official from the Commission of the European Communities, Directorate-General XI (Environment), Brussels, 24 July 1997; "Denmark to Push for Hazwaste Exports Ban at Basel Convention Meeting," *Environment Watch-Western Europe*, 21 January 1994, 7–8; and "Danish Hazwaste Ban Proposal 'Could Breach EU Rules'," *Environment Watch-Western Europe*, 18 February 1994, 4.

46. "EU Compromise Calls for Qualified Ban on Hazardous Waste to Non-OECD Nations," *International Environment Reporter*, 23 March 1994, 250–51.

47. Interviews by author with officials from the Commission of the European Communities, Directorate-General XI (Environment), Brussels, 24 and 30 July 1997.

preferences for fear of incurring the wrath of the Commission. Encouraged by Denmark's example and the knowledge that they might win a qualified majority vote in the Council, they began to openly support the Danish position. Just a few days prior to the late March conference, Denmark and its allies had isolated Germany and the United Kingdom as the sole EU opponents of the total ban.<sup>48</sup>

Acrimonious negotiations in Geneva and stiff resistance to compromise on both sides of the ban issue threatened to stalemate the international negotiations. Although the initial EU common position attempted to facilitate compromise between the polar opposite camps, toward the end of the Geneva meeting the manifest resistance to such a compromise caused the EU to reconsider its position and to ask for new instructions from Brussels, where the Environment Council happened to be meeting.<sup>49</sup> Operating under the shadow of QMV, a pro-ban qualified majority took shape. Outvoted and powerless to prevent the emergence of a new common position, Germany and the United Kingdom reluctantly agreed to the total ban proposal, which thereby gained unanimous backing in the Council.<sup>50</sup> The EU ultimately promoted a revisionist position at Geneva.

Internationally, the G-77 countries, strongly unified and with the support of a number of industrialized states, had expressed their intention ahead of time to bring the ban issue to a vote during the Geneva meeting if necessary.<sup>51</sup> Thus, the Second Conference of Parties entailed QMV in the EU and consensus under the shadow of a majority vote internationally. The international outcome approached the preferences of Denmark and the G-77 countries. In Decision II/12, taken without recourse to a vote at Geneva, the parties agreed not only to stop OECD to non-OECD shipments of waste for final disposal but also to halt all such shipments of waste for recycling from the end of 1997.<sup>52</sup> The G-77 had favored an immediate ban and Denmark a ban from 1995 onward, but all were willing to accept the 1997 outcome rather than risk alienating marginal members of their winning coalition.

According to officials at the United Nations Environmental Program (UNEP), the change in the EU position "had been crucial in enabling [the ban decision] to hap-

48. See "Commission Presents Waste Shipment Proposals," *European Report*, no. 1934, 16 March 1994, IV/2; "Positions divergentes des Douze sur l'interdiction d'exporter les déchets dangereux—proposition de la Commission," *Agence Europe*, no. 6193, 18 March 1994, 15; and "Member States Still at Odds over Exports of Dangerous Waste," *European Report*, no. 1935, 19 March 1994, IV/6-7.

49. See interview by author with official from the Commission of the European Communities, Directorate-General XI (Environment), Brussels, 30 July 1997; "Nouvelles complications à propos des exportations de déchets dangereux," *Agence Europe*, no. 6198, 25 March 1994, 6; and "Europe Reluctant to Curb Toxic Trade," *New Scientist*, 2 April 1994, 6.

50. See "Environment Council: EU Ministers Manage to Get Through Heavy Agenda," *European Report*, no. 1938, 30 March 1994; "Waste Exporters Lost Battle of Geneva—But the Fight over Scrap Metal Goes On," *ENDS Report*, no. 230 (1992), 15–18; "Waste and Recycling," *EIU European Trends* (1994/2), 49–50; "Les Douze ont accepté l'interdiction totale des exportations des déchets dangereux vers le Tiers Monde," *Agence Europe*, no. 6199, 26 March 1994, 8; and "Le Conseil s'était rallié à l'unanimité (modifiant sa position précédente) sur l'interdiction des exportations vers le Tiers Monde même des déchets destinés au recyclage," *Agence Europe*, no. 6200, 28/29 March 1994, 10.

51. See Porter and Brown 1996, 87; and "Basel Treaty Partners to Take Up Issue of Possible Total Ban on All Waste Exports," *International Environment Reporter*, 23 March 1994, 250.

52. UNEP/CHW.2/30, 25 March 1994, 19–20.

pen, because two of the major exporters of toxic wastes to non-OECD countries were Germany and the United Kingdom.”<sup>53</sup> Unlike at Piriapolis, these two recalcitrant states found themselves powerless to prevent a revisionist EU common position because of the qualified majority decision rule. The change in EU rules arguably changed the international outcome from a status quo, export-allowing one, to a revisionist, export-prohibiting one.

## Conclusion

In summary, I have developed a simple spatial model specifying the conditions under which and the ways in which variations in EU rules can alter international bargaining outcomes. Analytically, the model suggests that EU unanimity rules will tend to drag international outcomes toward the status quo, whereas qualified majority rules will tend to promote revisionist outcomes. Variations in EU rules can alter the bargaining weight and, conditional on the arrangement of preferences and decision-making rules in use in the international arena, the bargaining power of different positions.

The evidence broadly supports expectations generated by the model. The first hazardous waste negotiation provides a baseline of outcomes under member state free agency. In this situation, the EU revisionists could not impose their preferences either on their EU partners or internationally. The international outcome was strongly status quo oriented. The international outcome of the second waste negotiations, in which members worked through the EU under QMV, contrasts strongly with the EU-absent outcome. In 1994 the revisionist position of Denmark became internationally pivotal after it shaped the EU common position by virtue of QMV rules, and the international outcome went much further from the status quo ante.

With respect to ozone layer protection, the Copenhagen case demonstrated that EU unanimity rules could amplify the international bargaining weight of a minimalist position. Explanations emphasizing overall or “issue-structural” power, tied-hands bargaining strategies, or preference compatibilities among numerous and important states cannot account for this outcome. The Vienna case demonstrated that EU QMV rules can lead to more revisionist EU common positions and can push international outcomes away from the status quo. In both cases, we can best apprehend the divergence between the preferences of numerous and powerful states and observed outcomes, as well as variations in international outcomes over time, by analyzing the variable effects of EU decision-making rules on international outcomes.

The approach generalizes to all areas of EU external relations in which treaty amendments have changed the decision-making rule from unanimity to qualified majority. Changes enacted by the 1987 Single European Act, the 1993 Maastricht Treaty, and the more recent Amsterdam Treaty (signed in 1997 and not yet entered

53. Quoted in “Basel Treaty Partners Agree to Ban Waste Exports to Nations Outside OECD,” *International Environment Reporter*, 6 April 1994, 297.

into force) should permit pretest–posttest or longitudinal designs assessing the international effects of EU rule changes in areas as diverse as veterinary and human health, capital movements, transport, and worker health and safety, to name only a few.<sup>54</sup>

Assessing the external impact of integrating corporate actors matters not only to students of European integration but also to all those interested in global politics. As the international political economy grows more institutionalized, and regional and functional groupings proliferate, scholars will have to assess the international effects of multiple layers of decision-making rules. Neofunctionalist scholars have long held that when a group of states enacts common internal rules, it will likely have to defend them en bloc in its dealings with third parties.<sup>55</sup> We will have to think more, and in more sophisticated ways, about the external effects of regional integration if we are to understand international outcomes.<sup>56</sup> The EU provides a fertile starting point for such inquiries.

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54. For a concise overview of changes in decision-making rules wrought by successive treaty modifications, see König 1996.

55. Schmitter 1969.

56. Especially noteworthy in this context is Meunier 1998.



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