Multilateral bargaining at the 2004 IGC and referendums: An empirical assessment[*]

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Abstract

This paper presents an empirical assessment of a multilateral bargaining model in a multi-dimensional policy space with the help of data dealing with the IGC negotiations after the successful conclusion of the Convent. The main empirical focus is on how the negotiation process (who initiates the negotiations at the IGC) interacts with the preference configuration of the negotiators and the preferences of the relevant actors who have to ratify the proposed treaty domestically. The results suggest that domestic ratification constraints played a considerable role in the success of particular negotiators at the IGC to realize negotiation gains.

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1 Introduction

Compared to previous treaty negotiations in the European Union, the process leading up the "Treaty establishing a Constitution for Europe" was untypical. While normally during an Intergovernmental Conference (IGC), first at the level of the permanent representatives and then at governmental level, the various issues are debated, the Laeken declaration paved the way for a different process. A convention elaborated a proposal that, so the authors hoped, would simply be adopted by the heads of states and governments during the IGC.

As the failed summit meeting in Rome in December 2003 and the subsequent successful conclusion of the negotiations under the Irish presidency in 2004 demonstrated, however, there had remained some sticky issues. In previous treaty negotiations the proposal debated at the summit meetings was a text prepared mainly by government representatives of the member states. For the "Treaty establishing a constitution for Europe" the preparation of the draft was in part, out of the hands of the governments, since it was prepared at the so-called Laeken Convention.

For this reason these IGC negotiations provide an interesting testing ground for theoretical models dealing with multilateral bargaining. The negotiators of the 25 member states had a draft proposal at hand, which was not acceptable for all of them as the Rome summit demonstrated. Hence, in the negotiations under the leadership of the Irish presidency this draft proposal was modified to make it acceptable for the member states. These negotiations, however, took place under the threat that negotiation and/or ratification failure would lead to the status quo, namely to the set of treaties having culminated in the Treaty of Nice.

In this paper I propose to analyze these negotiations with the help of a bargaining model that takes into account possible ratification constraints.[1] While many such models exist in the literature, none to my knowledge takes the multilateral character of these negotiations into account. I assess the usefulness of the model with the help of detailed information of the governments' preferences regarding the main issues dealt with in the proposed treaty and information on the voters' preferences. While the latter information could also be used to glean information on the positions of political parties in the parliamentary ratification

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[1]Hence, the actual ratification outcome and the subsequent adoption of the Lisbon treaty is not addressed in this paper.

process, due to necessary coarseness of the data I focus mostly on the ratification by voters in referendums. The results show that one of the biggest winner at the IGC was Ireland. This country profited most likely both from its position as initiator of the negotiations and the ratification constraints due to the scheduled referendum.

In the next section I briefly discuss theoretical models that have been used so far to address the effect of ratification constraints on international organizations. These mostly bilateral bargaining models are hardly adequate for negotiations as the ones at the IGCs. Hence, I propose a multilateral bargaining model drawing on Banks and Duggan (2000). Section three discusses the necessary ingredients for an empirical test of such a model. I also present the empirical material used in the test of the model for the 2004 IGC. In section four I present the results of the analysis for all countries having announced to hold a referendum on the proposed treaty. Briefly, I also discuss the results for countries not having scheduled a referendum. Section five concludes.

2 Theoretical models

Starting with the seminal work of Schelling (1960) and Putnam (1988) a series of authors has assessed how domestic ratification of international treaties affects the negotiation results.[2] While Schelling (1960) proposed as conjecture his "paradox of weakness," Putnam (1988) resorted to a spatial representation, which allowed him to address more formally Schelling's (1960) conjecture. Putnam's (1988) work created the foundations for a considerable series of subsequent formal models dealing with the aptly coined "two-level games" (e.g., Iida, 1993; Mo, 1994; Schneider and Cederman, 1994; Hammond and Prins, 1999; Tarar, 2001; Tarar, 2005). All these models are based, however, on either at least one or even both of the following simplifications. Either these models assume that only two parties are involved in the negotiations and/or they assume that the bargaining space is one-dimensional.[3]

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[2]In this section I draw heavily on Hug (2004), where the models discussed here are presented in more detail. See also the highly relevant work by Humphreys (2007).

[3]At the empirical level some authors employ the Nash bargaining or related axiomatic solutions (e.g. Stoiber, Thurner and Kroneberg, 2003; Linhart and Thurner, 2004; Thurner and Linhart, 2004; Bailer and Schneider, 2006). While allowing for multilateral extensions and asymmetries in bargaining power, possibly due to ratification constraints, there is obviously no

Both of these limitations make these models, obviously, hardly adequate for assessing how ratification constraints affect international negotiations in a context as the EU. In addition, as is nicely illustrated in Hammond and Prins's (2006) work (see also Hammond and Prins, 1998; Hammond and Prins, 1999), already in the context of bilateral bargaining in a one-dimensional space, but even more so in multi-dimensional spaces, the insights from two-level games are heavily dependent on the preference profiles.

Extending existing two-level games to cover multi-dimensional bargaining spaces raises, however, an additional problem, which is nicely discussed by Tarar (2005). While almost all two-level games implicitly or explicitly assume that the bargaining takes place over a fixed "pie," i.e. a private good, the way in which this private good is distributed at the domestic level is not explicitly addressed.[4]

Still under the assumption of negotiations over a private good with ratification,[5] Hug (2004) shows that a model proposed by Chae and Yang (1994) can be extended to study the effect of ratification constraints. If the ratification constraints allow for a mutually advantageous bargain, such ratification constraints result in negotiation gains. If in addition the ratification constraints generated by the domestic ratification processes of the whole set of negotiators are not too stringent, the initiator of the bargaining process will reap additional benefits. While these results largely echo those obtained under standard two-level games, the focus on a negotiation over a private good is problematic for most international negotiations and especially for studying the effect of ratification constraints as Tarar (2005) convincingly argues.

For this reason Hug (2004) draws on a very general bargaining model discussed by Banks and Duggan (2000), which does not hinge on the assumption of bargaining over a private good. Integrating in this model the effects of ratification constraints leads to conclusions echoing the insights from Hammond and Prins's (2006) work, namely that the effects of ratification constraints are very sensitive to the preference configurations. At the most general level, illustrative examples based on this model suggest, however, two main insights. First, provided that the constraining ratifying actor has preferences that are aligned with

explicit model underlying the empirical predictions.

[4]Tarar (2005) proposes a way how to integrate such considerations in a two-level game.

[5]This would occur in Tarar's (2005) model if a president is negotiating and the gains in the private good would be distributed among the whole population, since in her election the whole population is the relevant electorate.

the corresponding negotiator, ratification constraints allow for increased negotiation gains. Second, the initiator of the negotiations will reap additional gains, if permitted by the combination of the domestic ratification constraints of all negotiators. Both of these insights are, however, very contingent on the preference profiles of negotiators and ratifying actors.

3 Bargaining and ratification spaces

The contingent nature of the effects of ratification constraints in international negotiations over public goods highlights the demanding nature of empirical tests of two-level games.[6] As already Putnam's (1988) work assumed, the preferences of negotiators and ratifying actors have to be representable in the same space. More precisely, Putnam's (1988) representation, and all the subsequent models as well, assume that the issue relevant in the negotiations, i.e. the bargaining space, are identical to the issues relevant for the ratification, i.e., the ratification space.[7] An additional implication of this necessary link between bargaining and ratification spaces is that any empirical tests of two-level games, whether quantitative or qualitative, will by definition engage in interpersonal comparisons of utilities.

Combined with the hardly adequate models used to study multilateral negotiations, especially since the latter fail to address the nature of the good that is the object of the negotiations, most empirical tests of "two-level games" have to be taken with a large grain of salt. The reason for this, is that the amount and quality of information required to test "two-level games" is considerable.

First of all, the exact ratification processes, as anticipated by the negotiators have to be determined. As Milner (1997) convincingly argues, the ratification constraints often evolve in the course of the negotiations. Second, detailed information on the main issues of the negotiations have to be collected, and the preferences regarding those issues of all the actors involved have to be determined. Combining this information allows generating a bargaining space, into which all actors with their ideal-points may be placed and the relevant ratification constraints may be depicted.

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[6]In this section I draw on material presented and discussed in more detail in Hug (2007*b*).

[7]Obviously, one might assume distinct bargaining and negotiation spaces, like the different spaces assumed in Enelow and Hinich's (1984) work on electoral competition, but in that case the exact mapping has to be known between these two spaces.

Luckily enough, for the negotiations leading up to the "Treaty establishing a Constitution for Europe" most of this information has been collected in the research project "Domestic structures and European integration."[8] In table 1 I first depict the expected ratification processes in the 25 member countries. These processes differ along three dimensions. First, whether or not more than one parliamentary chamber was involved. Second, whether or not in the votes in these parliamentary chambers qualified majorities were required. And third, whether or not in addition a referendum was scheduled.

Table 1: Ratification of treaty on EU constitution[a]

	Parliamentary chambers	
	1	2 +
simple majority	EL, LV, MA, SE	BE, IT
qualified majority	CY(2/3), EE(3/5), FI(2/3), HU(2/3), LT(2/3), SK(3/5), SI(2/3),	AT(2/3), DE(2/3), FR(3/5)
+ referendum	DK, LU, PT, UK	CZ(3/5), ES(3/5), IE, NL, PL(2/3)

[a]*Source:* Hug and Schulz (2007c).

While in table 1 nine countries appear as having scheduled a referendum, one country that has held a referendum is not appearing, namely France. The reason for this is that at the end of the IGC negotiations France had not yet announced a referendum. It did so only after the conclusion of the negotiations. This highlights that the timing of the announcement of referendums is of crucial importance. Therefore I report this information in table 2. Overall eleven countries had announced a referendum with one, namely Belgium, withdrawing the announcement at a later stage.

Once the exact criteria for the domestic ratification are determined, the preferences of all involved actors are required. The first set of actors is obviously the governments involved in the negotiations. For these actors I rely on the results of the expert surveys carried out in all capitals of the 25 member states, which yield precise information on the positions of the negotiators on a large set of issues (for more information on this data see Benoit et al., 2005; Blavoukos, Dorussen and Lenz, 2005; Hix and Crombez, 2005; König, Finke and Daimer, 2005; König and Hug, 2006).[9] Given that the status quo (i.e., treaties up to the treaty of Nice),

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[8]See http://dosei.dhv-speyer.de.

[9]The set of issues covered and used in the empirical analysis here appears in table 4 in the appendix.

Table 2: Timing of referendum announcement[a]

country	time of announcement
Ireland	no announcement, since required
Spain	June 1, 2003 (Aznar)
	June 24, 2004 (Zapatero)
Luxembourg	June 27, 2003
Denmark	August 8, 2003
Netherlands	September 10, 2003
Portugal	October 7, 2003
Czech Republic	October 7, 2003
Poland	March 24, 2004
United Kingdom	April 20, 2004
Belgium	June 1, 2004, but then withdrawn
France	July 7, 2004

[a]*Source:* Hug and Schulz (2007*c*).

the draft proposal from the Laeken Convention, and the text adopted at the IGC can also be coded on these issues, the various positions generate a bargaining space.

A main issue to address is obviously, how the positions on the various issues relate to this bargaining space. If issues are taken as the dimensions of the bargaining space, we have to make quite heroic assumptions on the independence of the various dimensions.[10] A way to circumvent these problems is to assume that the positions on the various issues are generated by the latent dimensions of the bargaining space. To uncover these latent dimensions, factor analyses or item-response theory models (see for this equivalence for instance Takane and de Leeuw, 1987; Quinn, 2004) may be employed. Given the ordinal responses in the expert survey, traditional factor analyses are, however, hardly appropriate.[11] In previous work Hug and Schulz (2005, 2007*a*,2007*b*,2007*c*) have used this approach to determine the bargaining space and to project the preferences of voters (Hug and Schulz, 2005; Hug, 2007*a*; Hug and Schulz, 2007*b*) and political parties (Hug and Schulz, 2007*c*) into this bargaining space.[12] These analyses, employing an ordinal factor analysis in a Bayesian framework proposed by Martin and Quinn (2004) (see also Quinn (2004)) yielded a two-dimensional bargaining

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[10]Both Hug and Schulz (2007*c*) and König and Finke (2007) present such analyses, the former employing only the issues for which changes occurred at the IGC, the latter considering all issues but only using the information whether they involved changes from the status quo.

[11]Hix and Crombez (2005) provide the results of such an analysis.

[12]Given the way in which the predictions from theoretical models were tested, the relative locations of negotiators and ratifyers was necessary information for the empirical tests and not the exact positions of all actors in the same bargaining space.

space.[13]

Once the bargaining space determined, the question becomes how the positions of the ratifying actors are to be included. Ideally, under the assumption that the same issues are relevant for all such actors, the same information should be collected for them. For the voters, the design of the expert survey tried to tailor some questions to the ones employed in standard Eurobarometer surveys. While in previous work (Hug and Schulz, 2005, 2007a,2007b) the aggregated responses to these questions were analyzed in a separate ordinal factor analysis[14] and then matched, I use here a separate ordinal factor analysis on the bases of the median responses in each member country as well as the median responses of the sympathizers of all parties represented in national parties on the questions used in the Eurobarometer 61 and the Candidate Countries Eurobarometer (2004.1)[15] as additional observations for the ordinal factor analysis used to determine the bargaining space.[16] For this analysis I constrain, however, the "loading" coefficients of one variable which is identical between expert survey and Eurobarometer survey to be identical to the ones obtained in the factor analysis used to position the governments in the bargaining space.

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[13]While the factor analysis proposed by Martin and Quinn (2004) does not allow for a direct assessment of the importance of the various dimensions, Hug and Schulz (2007a) discuss results showing that adding a second dimension considerably increases the accurate predictions of issue positions, while this is hardly the case if a third dimension is estimated. In terms of importance the second dimension is about half as important. This difference is reflected in the analyses and figures presented below.

[14]Hug and Schulz (2007a) discuss these various approaches and show that the results are rather robust.

[15]I employed these data, since compared to previously used surveys (i.e., Eurobarometer 60 and Candidate Countries Eurobarometer 2003.4, the surveys used here contained a question on partisan sympathy. This allows, to consider the positions of the political parties as well. The set of questions asked appear in the last part of table 4 in the appendix.

[16]The two sets of observations are linked by the common measures for the status quo, the draft and the IGC proposal and one common question. This "bridging" was suggested to me by Daniel Finke, whom I wish to thank for the suggestion. As will become apparent below, the results are not very sensitive to the strong assumptions of this "bridging." The observations, i.e., the governments, the voters, and the set of parties from each national parliament have the same weight in the ordinal factor analysis.

4   Effects of ratification in bargaining and ratification spaces

Proceeding as discussed above results in the derivation of a bargaining space that is assumed to be identical to the ratification space.[17] In figures 2-12 below this derived bargaining and ratification space is used as a foil to assess the effect of ratification constraints for countries having announced at one point or another a referendum on the IGC result.

Before assessing whether the insight from the multilateral bargaining model discussed above (see for more details Hug, 2004) are borne out, some general results from the bargaining space are worth noting. Given that the second dimension of the bargaining space is about half as important as the first one, almost all the governments prefer the IGC outcome to the status quo. The single exception being Ireland, whose government is almost located at equidistance between the status quo and the IGC proposal (see below for more details). Given that unanimity is the decision rule at IGCs, this is a comforting result for the analyses proposed here. If we consider voters we find that the voters of Austria, Cyprus, the Czech Republic, Estonia, Greece, Ireland, Luxembourg, Ireland, Malta, Netherlands, Slovakia, and (surprisingly) Spain prefer the status quo to the IGC outcome. Again a result which lends credence to the numerous assumptions behind this analysis.

If we look at the last phase of the negotiations, namely the IGC negotiations in 2004, we find that quite a few countries would have preferred the draft treaty elaborated by the Laeken Convention to the IGC outcome. In figure 1 I depict the locations of all actors for which we can determine positions, hence the governments (upper case letters), the voters (lower case letters) and the political parties represented in the national parliaments (only depicted as points). If we assume equal weights for the two dimensions, we find that France, Greece, and Italy have lost in this last phase of negotiation.[18] Interesting to note is, however, and this is clearly visible in figures 2-12 that the changes from the draft to the IGC outcome went in the spatial direction of the voters' preferences, with the
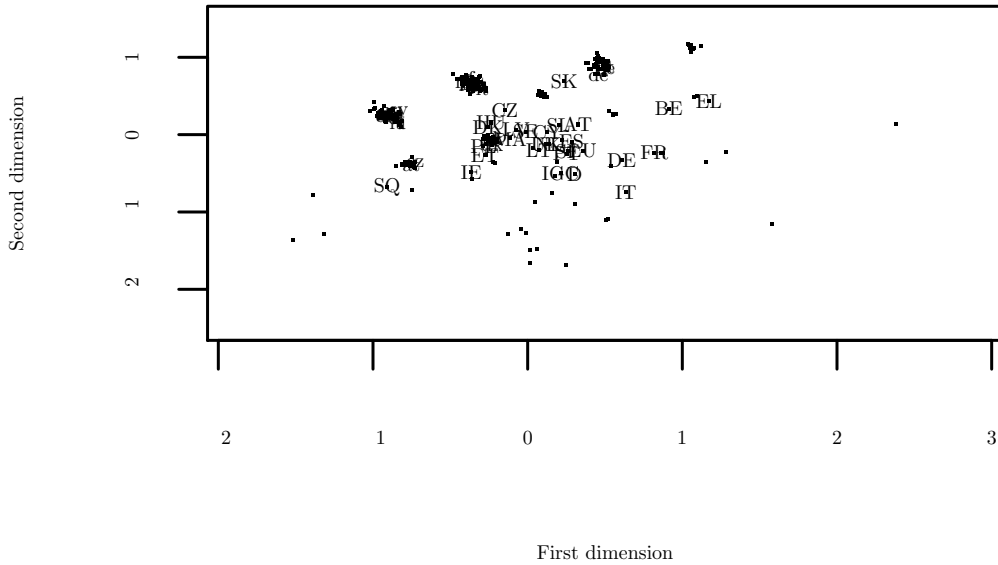
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[17]The results of the underlying ordinal factor analysis are reported in tables 4 and 6 in the appendix.

[18]Both Hug (2007a) and Hug and Schulz (2007c) consider the changes that have been adopted at the IGC in 2004 in more detail.

single exception of the Belgian voters who lost.

Figure 1: Position of all negotiating and ratifying actors

With these general results in mind, I now turn to a more detailed analysis of the countries having announced referendums. I follow here the order in which the announcement (if any) of referendums was made (see table 2). Obviously the first country to look at is Ireland. Given its constitutional provisions it was obvious from the beginning that a referendum would occur, which also was to be of a binding nature.[19]

As figure 2 nicely illustrates, the government (IE, uppercase represent government preferences) preferred outcomes rather close to the status quo. It slightly preferred the status quo to the draft proposal, and was more or less indifferent between status quo and IGC outcome. The changes adopted under Irish pres-

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[19]Whether a referendum outcome is biding or not, might influence the effect of this ratification constraint. As Hug (2007a) shows, however, that distinguishing between binding and nonbinding seems not very relevant.

Figure 2: Ratification constraints in Ireland

First dimension

legend: indifference curves of government (solid),
voters (dashed), and pivotal party/ies (dotted)
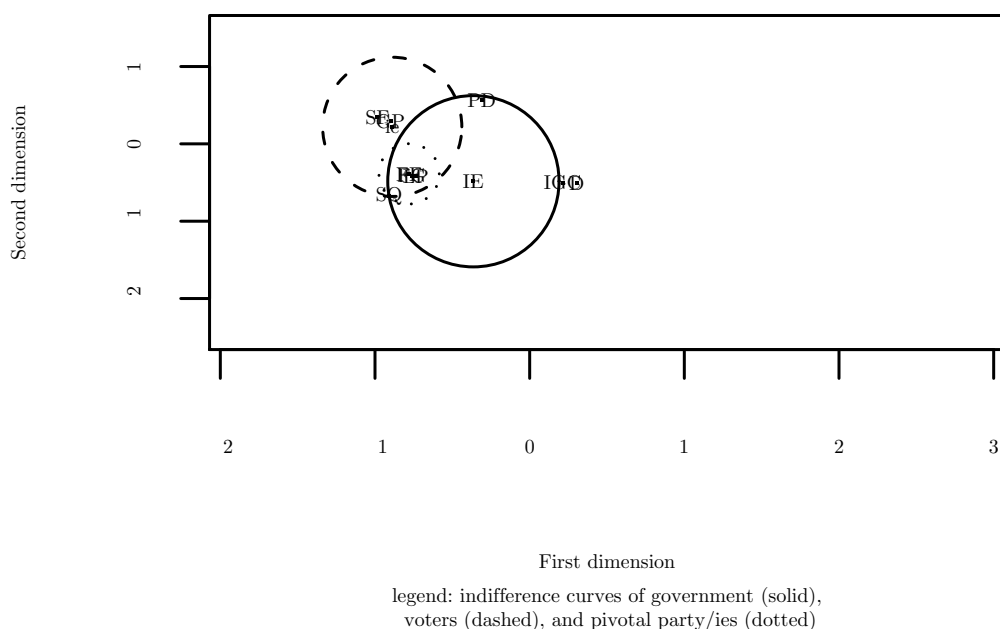
idency led, however, to an IGC outcome much closer to the Irish government's preferred outcome.

Turning to the Irish voters (i.e., lowercase for voters), figure 2 shows that they clearly prefer the IGC to the draft proposal. The IGC is, however, much further away from the Irish voters than the status quo, suggesting that winning something at the IGC in 2004 made a success in the scheduled referendum more likely. When considering the parties, we find that the pivotal party preferred the status quo to both the draft and the IGC outcome (figure 2).[20] The voters would also have clearly rejected the Convention draft than the IGC outcome.[21]
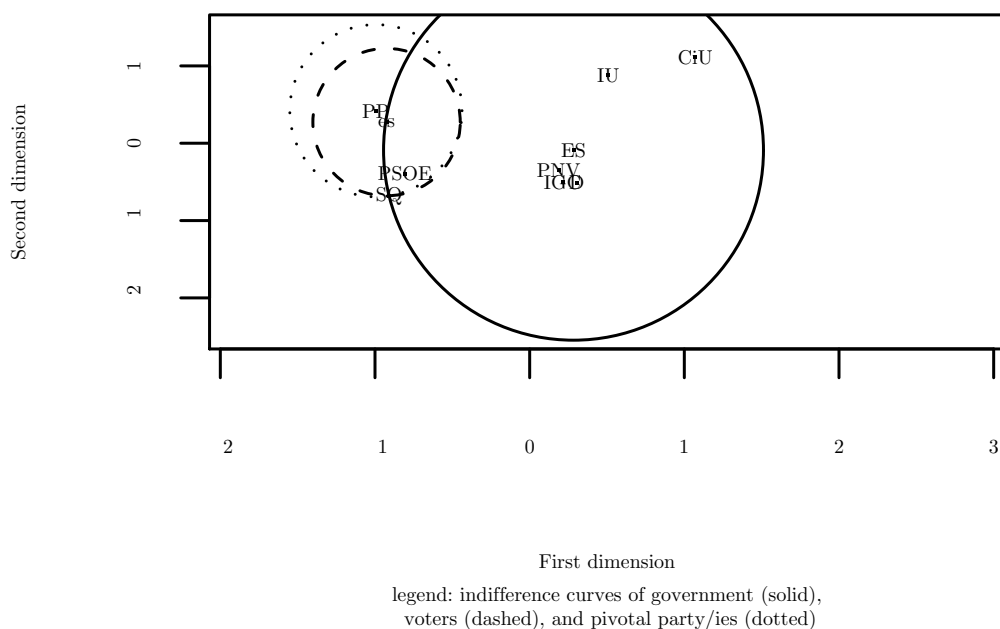
Given these insights and the overall preference configuration the gains realized

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[20]This is contrary to the analyses reported in Hug and Schulz (2007c), which show that the ratification in the Irish parliament would not cause any problems.

[21]This is obviously not completely unrelated to the negative outcome of the Irish referendum on the Lisbon treaty.

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by Ireland seem to support the implications from the multilateral bargaining model. The changes realized at the IGC were obtained under the initiation of Ireland, and not surprisingly, the move from draft to IGC goes very squarely in the direction of the Irish government's ideal-point. In addition, given that the voters appeared rather skeptical toward the draft, suggests that also the referendum constraint played its role.

Figure 3: Ratification constraints in Spain

First dimension

legend: indifference curves of government (solid),
voters (dashed), and pivotal party/ies (dotted)

The second country announcing a referendum was Spain, but this announcement had to be reiterated again by the newly elected government. Figure 3 illustrates the position of the Spanish government, the voters and political parties in the bargaining space. The figure shows that both the draft proposal and the IGC outcome were clearly preferred to the status quo by the Spanish government. Both voters and the pivotal party in parliament, however, preferred the status quo to the IGC proposal and the draft proposal (Figure 3). [22]

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[22] The results of the analysis presented in Hug and Schulz (2007c) suggest that the parlia-

Shortly after Spain's first announcement the government of Luxembourg followed suite. The government of Luxembourg had an ideal-point close the Convention draft and the IGC outcome (Figure 4). It realized a few marginal gains, according to this figure. The voters preferred according to this analysis the status quo to the draft proposal. Also the pivotal party in parliament seemed to prefer the status quo even to the IGC outcome (Figure 4).[23]

Figure 4: Ratification constraints in Luxembourg

First dimension

legend: indifference curves of government (solid),
voters (dashed), and pivotal party/ies (dotted)
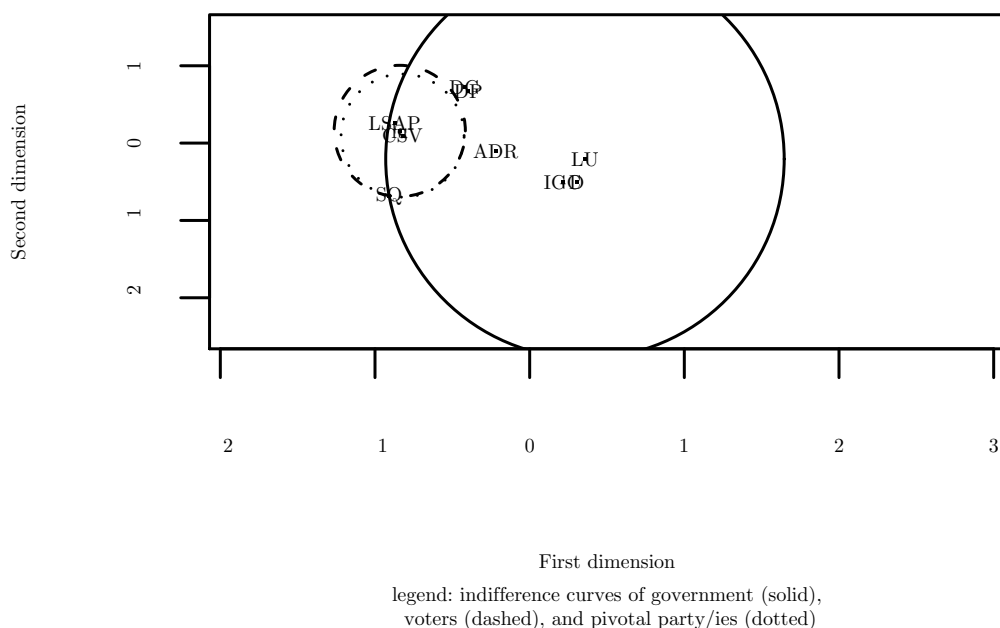
Another country, with a much longer tradition of referendums on EU treaties, namely Denmark was the next to announce a referendum.[24] Looking at the preference configuration for Denmark (Figure 5) one notes that the government's

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mentary ratification was not exactly a foregone conclusion.

[23]A slightly critical parliament, is also reported in Hug and Schulz (2007c).

[24]Legally, a referendum would be triggered if at least one-sixth of the members of parliament

and voters' ideal-points lie well aligned away from the draft treaty. Hence, both government and voters had a clear preference for the IGC outcome compared to the draft proposal. The same also held for most parties, and the pivotal party based on the 5/6 majority requirement still preferred the IGC outcome to the status qui (Figure 5).[25]

Figure 5: Ratification constraints in Denmark

First dimension

legend: indifference curves of government (solid),
voters (dashed), and pivotal party/ies (dotted)
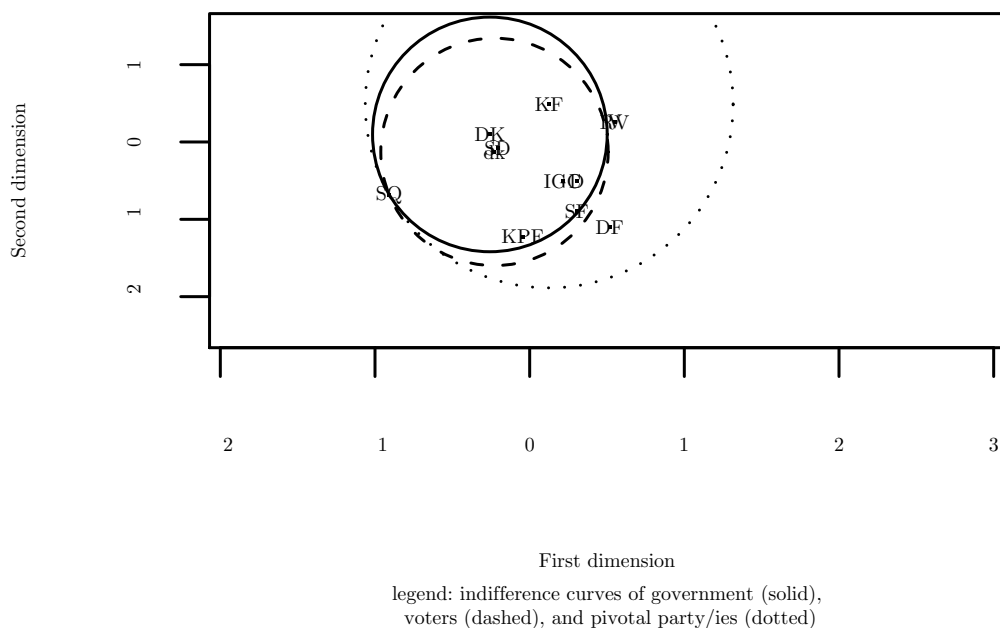
For the Dutch government, the draft proposal looked not too bad, as figure 6 illustrates. The changes adopted at the IGC, however, moved the proposal

voted against the treaty in the ratification debate. Obviously, it is easy for a government to make sure that this is the case, hence the announcement only took away the uncertainty, whether one-sixth of the members of parliament would oppose the treaty.

[25]In the analysis reported in Hug and Schulz (2007c) the parties could not have blocked the ratification under a simple majority vote in the Danish Folketing, but the treaty would have failed at the five-sixths requirement.

slightly closer to its ideal point. This same change also profited the voters, but given that the voters barely preferred the IGC proposal to the status quo, the marginal gains realized at the IGC are much more due to the fact that other countries' preferences and ratification processes made these changes possible. Among the political parties the pivotal one preferred the IGC outcome to the status quo, (Figure 6). [26]

Figure 6: Ratification constraints in the Netherlands

First dimension

legend: indifference curves of government (solid),
voters (dashed), and pivotal party/ies (dotted)
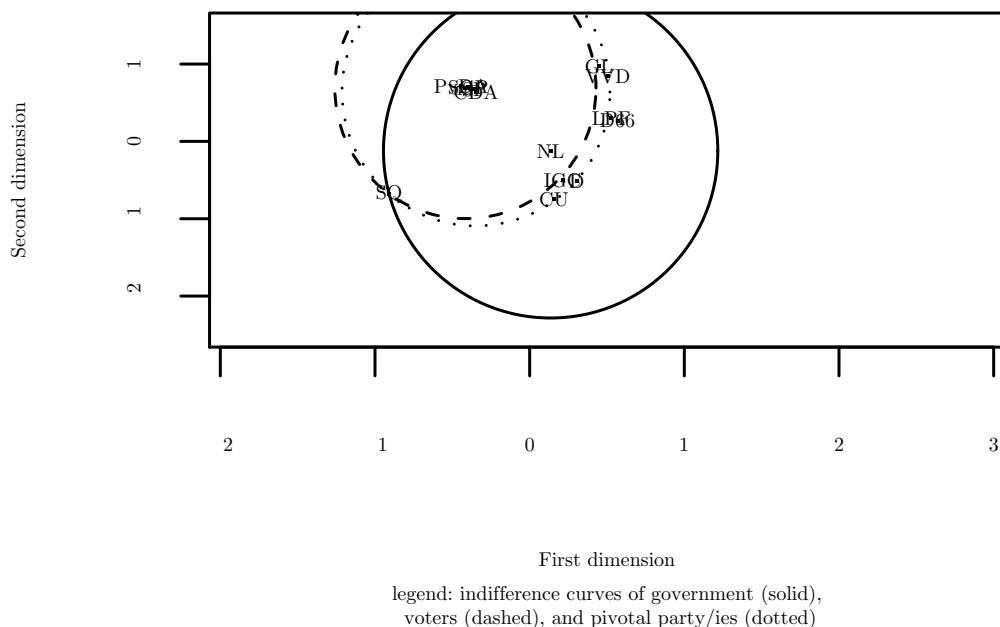
Almost identical is the situation for Portugal (Figure 7). Again both government and voters benefit from the changes adopted at the IGC in 2004, but the voters prefer the draft and the IGC proposal to the status quo, so that the

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[26]Such a conclusion is also suggested by the fact that Hug and Schulz (2007c) find that the parliamentary ratification was unlikely to cause any problems.

referendum probably hardly affected the negotiations. Hence, again, the gains might have been much more "collateral damages" of the bargains reached by other actors. This especially since the pivotal party also had a preference for the IGC proposal over the status quo (Figure 7)..[27]

Figure 7: Ratification constraints in Portugal

First dimension

legend: indifference curves of government (solid),
voters (dashed), and pivotal party/ies (dotted)
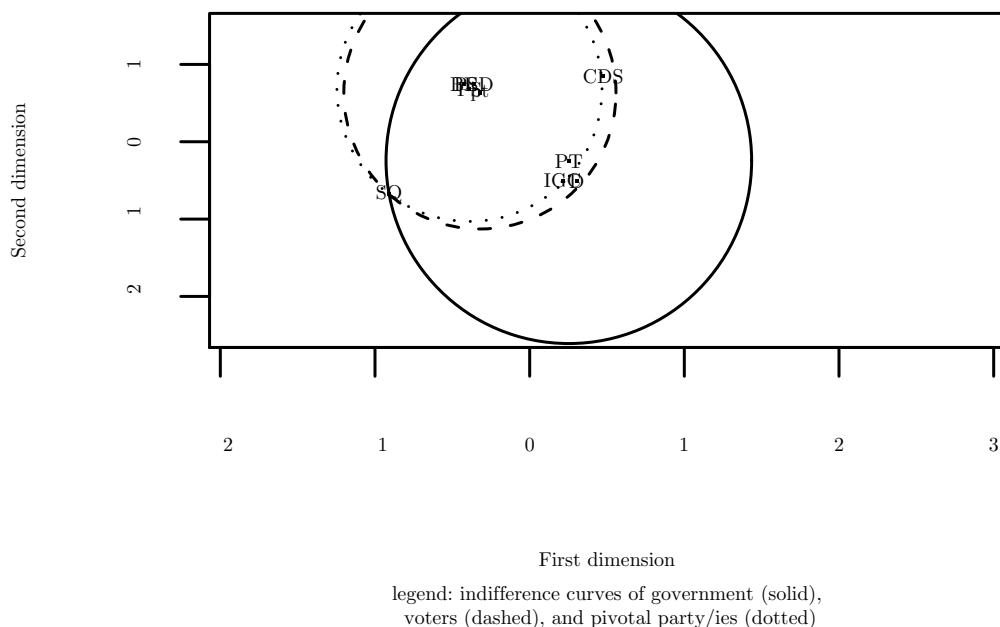
Quite a bit different looks the situation for the Czech Republic (Figure 8). In this country both government and voters prefer the IGC outcome to the draft proposal, but the voters are, compared to the two countries previously discussed, much more skeptical toward the treaty modifications. In addition, the pivotal

[27]The analysis of the party positions presented in Hug and Schulz (2007c) might allow for the claim, that it was actually the critical stance of the members of parliament that might have allowed for some negotiations gains.

party in parliament preferred the status quo to the IGC proposal. Hence, the gains realized by the Czech government are not unrelated to the announcement of a referendum, but in addition also the skeptical parties are likely to have played a role.[28]

Figure 8: Ratification constraints in the Czech Republic
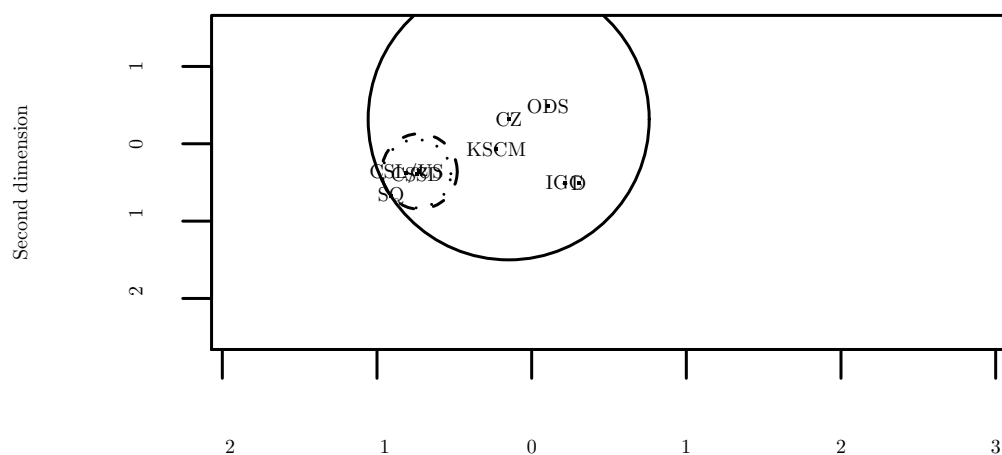
First dimension

legend: indifference curves of government (solid),
voters (dashed), and pivotal party/ies (dotted)

The preference configuration for Poland (Figure 9) looks very similar. Again both government and voters prefer the IGC outcome to the draft proposal. Hence, the government realizes a small gain, since the IGC outcome is a clear move toward its preferences. The voters still clearly preferred both the draft and the IGC proposal to the status quo, though the former only slightly. This might be

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[28]In addition, the critical stance in parliament, especially in the upper house, might also have had an impact (Hug and Schulz, 2007c).

the explanation for the rather minute gains at the IGC in 2004. Especially since most of the parties were also for the IGC outcome. Hence, the pivotal parties clearly preferred both draft and IGC outcome to the status quo.[29]

Figure 9: Ratification constraints in Poland

First dimension

legend: indifference curves of government (solid),
voters (dashed), and pivotal party/ies (dotted)

Quite different looks the preference configuration in the United Kingdom (Figure 10). While both government and voters prefer the IGC outcome to the draft proposal, the ideal points of these sets of actors are well aligned. The pivotal party also slightly preferred the IGC outcome to the status quo (Figure 10).[30]

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[29]Interestingly, the analysis of the parliamentary ratification in Hug and Schulz (2007c) suggests that the treaty would hardly face any difficulties. Hence, the gains realized by Poland are most likely due to the announced referendum.

[30]Given that Hug and Schulz (2007c) also report negative stances in the British parliament, it is likely a combination of parliamentary ratification and the referendum that allowed the

Figure 10: Ratification constraints in the United Kingdom
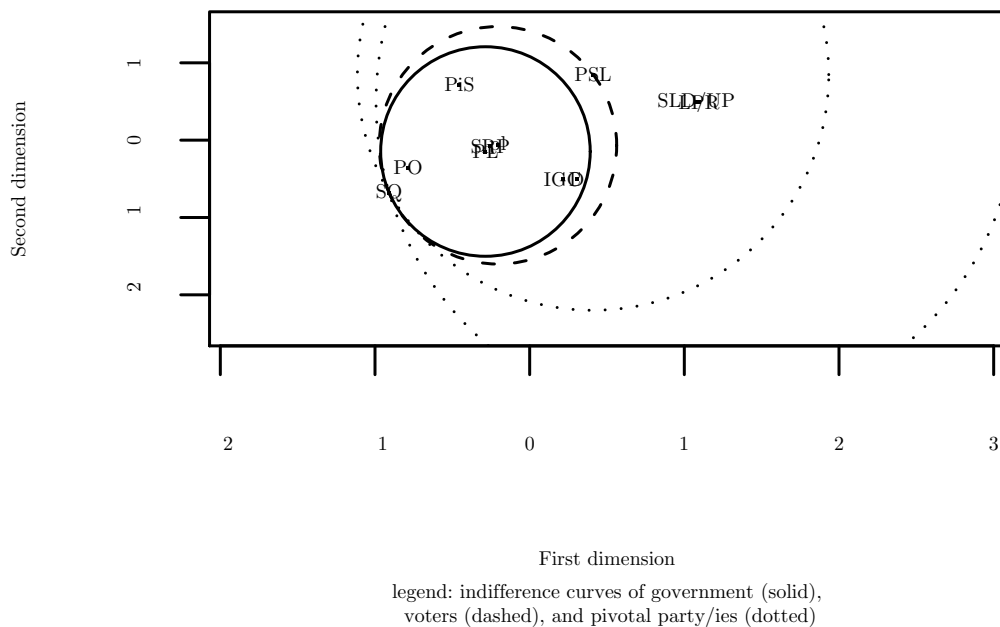

First dimension

legend: indifference curves of government (solid),
voters (dashed), and pivotal party/ies (dotted)
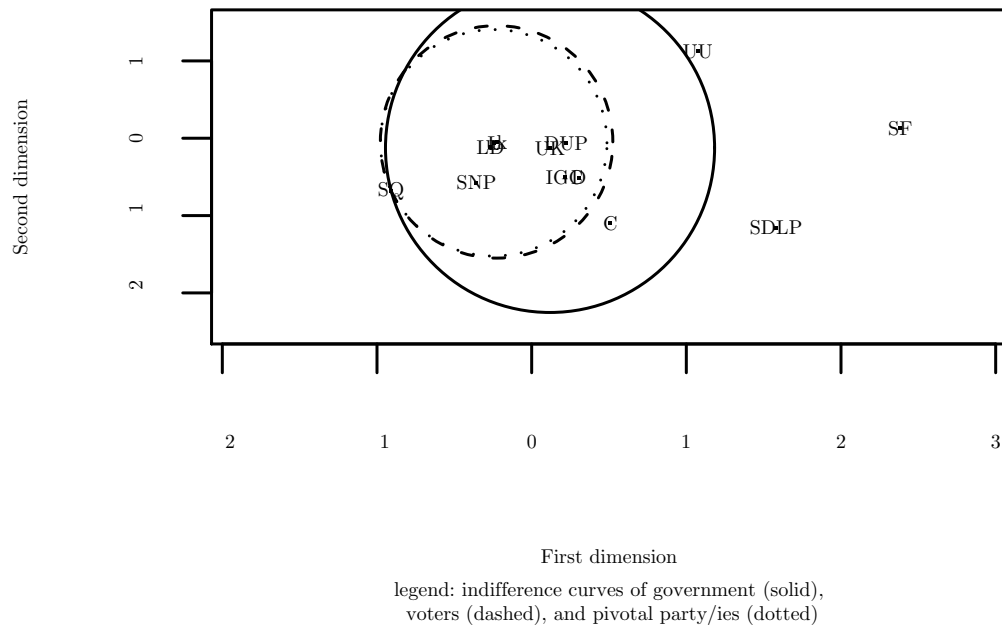
British government to realize gains.

The second to last country announcing a referendum was Belgium, but this announcement was later withdrawn. Figure 11 illustrates the positions of the Belgian government, the voters and the parties in the bargaining space. As nicely appears, the Belgian government would have preferred the draft proposal to the IGC outcome. The voters, however, had a clear preference for the IGC outcome, even over the status quo. Given this later element, a referendum, where implicitly the status quo is pitted against the IGC outcome, would hardly have created any problems. Consequently, a referendum in such a condition should barely affect the negotiation outcomes. And quite clearly, both by withdrawing the referendum and by losing in the last phase of the negotiations, the case of the Belgian government seems to illustrate perfectly how little effect referendum calls have, if voters prefer the proposed treaty strongly to the status quo. This especially also, because the pivotal party in parliament (Figure 11) had a clear preference for both Convention draft and IGC over the status quo.[31]

Very similar is the situation for the only country whose government announced a referendum after the conclusion of the IGC negotiations (Figure 12). As in the case of Belgium, the French government loses in this last phase of the negotiations, while the voters prefer the IGC outcome to the draft proposal. In such a situation a referendum, even if announced before the end of the negotiations, would have hardly served the French negotiators. Similarly, the positions of the political parties, among which the pivotal party prefers both Convention draft and IGC proposal to the status quo (Figure 12 hardly suggest any possibility for tough bargainng.[32]

Taken individually, these analyses for all the countries having announced a referendum lend some credence to the insights of a multilateral bargaining model, namely that the effects of ratification constraints are highly contingent. What the analyses also suggest is that the alignment of the voters' preferences with the governments' preferences is a crucial element to assess the effect of ratification constraints. This effect can be studied in a more systematic way by considering the relative location of voters and governments compared to the draft treaty. The easiest measure is obviously the angle between the line linking the two ideal

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[31]This result finds confirmation in Hug and Schulz (2007c), who suggest that the parliamentary ratification was hardly a challenge.

[32]This also since Hug and Schulz (2007c) report that the ratification in parliament, even with the higher hurdle of three-fifths in the absence of a referendum, was not expected to be a problem.

Figure 11: Ratification constraints in Belgium

First dimension

legend: indifference curves of government (solid),
voters (dashed), and pivotal party/ies (dotted)
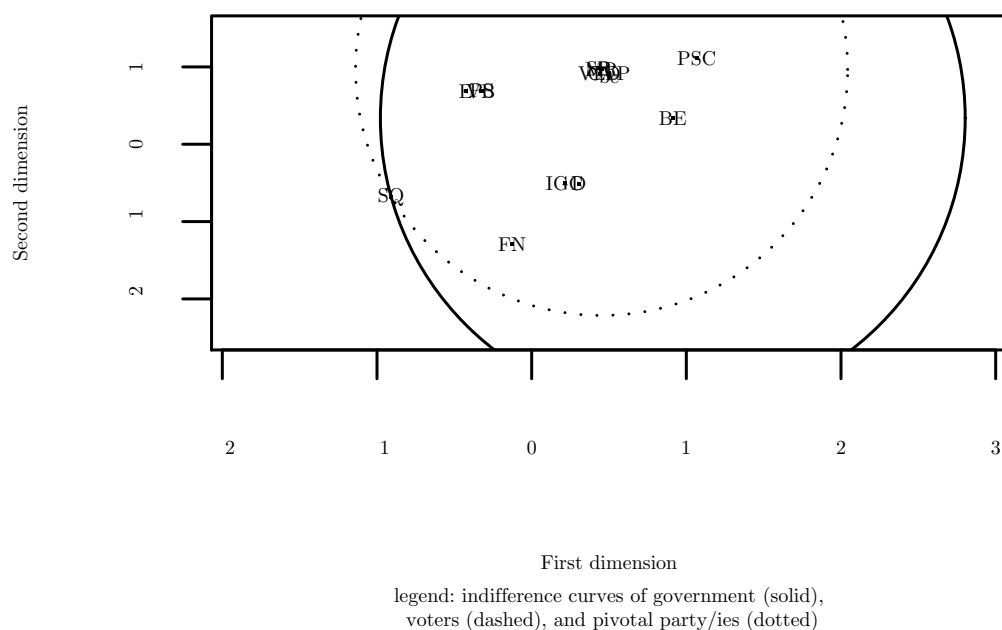
points to the location of the draft treaty. The larger this angle and the closer to 180 degrees, the more opposite are the preferences between the government and the voters.

In table 3 I report the results of a simple analysis considering the alignment of preferences as independent variables to explain the gains realized both at the IGC and over the whole negotiation process.[33] I let the effect of this variable depend on whether a referendum has occurred and whether the voters are in favor of th IGC outcome or not. In addition, since Ireland was chairing the negotiations, I also introduce a dummy for this country.

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[33]The descriptive statistics of the variables employed in this analysis appear in table 7 in the appendix.

Figure 12: Ratification constraints in France

First dimension

legend: indifference curves of government (solid),
voters (dashed), and pivotal party/ies (dotted)
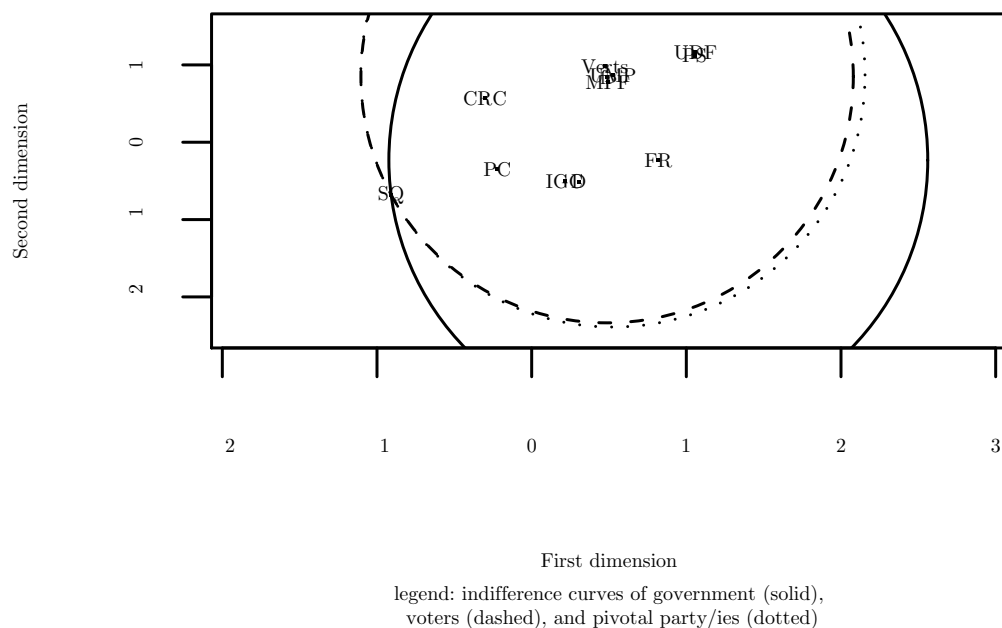
A first result appearing in table 3 is that against the theoretical implica-
tion, the country chairing the negotiations did not realize additional gains when
controlling for the other effects. Given that the remaining iterative effects are
difficult to interpret I present the substantive results of the regression analysis in
figure 13, where I depict the relationship between the value of the angle and the
gains as a function of referendums and the voters' stances. The main difference
clearly appears between countries that held a referendum with critical voters and
those that had critical voters but held no referendum. The effect of preference
divergence (size of the angle) is much stronger in the former cases than the latter.
The remaining combinations of referendums (or not) and voter preferences are
more aligned with the first situation.

Table 3: Explaining gains by preference configuration

	gains compared to status quo			gains at IGC		
	Model 1	Model 2	Model 3	Model 4	Model 5	Model 6
referendum	−0.059	−0.089	0.240	0.023	0.014	0.007
	(0.111)	(0.180)	(0.261)	(0.016)	(0.027)	(0.040)
absolute value of angle	0.005	0.005	0.004	−0.001	−0.001	−0.001
	(0.001)	(0.001)	(0.001)	(0.000)	(0.000)	(0.000)
voters for	0.195	0.200	0.158	−0.043	−0.042	0.011
	(0.114)	(0.119)	(0.191)	(0.017)	(0.018)	(0.029)
ireland	−0.460	−0.447	−0.697	−0.002	0.002	0.029
	(0.281)	(0.294)	(0.270)	(0.041)	(0.043)	(0.042)
absolute value of angle × referendum		0.000	−0.002		0.000	−0.000
		(0.002)	(0.002)		(0.000)	(0.000)
referendum × voters for			−0.932			0.016
			(0.364)			(0.056)
absolute value of angle × voters for			0.002			−0.001
			(0.002)			(0.000)
absolute value of angle × referendum × voters for			0.019			−0.000
			(0.007)			(0.001)
Intercept	0.345	0.353	0.361	0.104	0.106	0.078
	(0.136)	(0.143)	(0.153)	(0.020)	(0.021)	(0.024)
N	25	25	25	25	25	25
Resid. sd	0.254	0.260	0.214	0.038	0.038	0.033

Standard errors in parentheses

5 Conclusion

The IGC negotiations of 2004 differed compared to normal IGC negotiations insofar as the governments had to deal with draft proposal prepared by the Laeken Convention. Given this nature, this negotiation provides an interesting testing ground for multilateral bargaining models considering the effect of ratification constraints.

Drawing on a model proposed by Banks and Duggan (2000) I highlighted the contingent effects of ratification constraints. Focusing on the role of ratification in referendums, I then proposed an empirical assessment of this model with the help of detailed information on the stances of the governments and voters, and to a lesser degree political parties. These analyses suggested that there is an intricate relationship between preference configurations, ratification constraints and negotiation structure that helps explain negotiation gains. Some countries, depending on the preference configurations, could hardly profit despite of having called for a referendum.

Figure 13: Gains and preference differences

legend: solid = referendum voters against, dashed = referendums voters for, dotted = no referendum voters against,
longdash = no referendum voters for
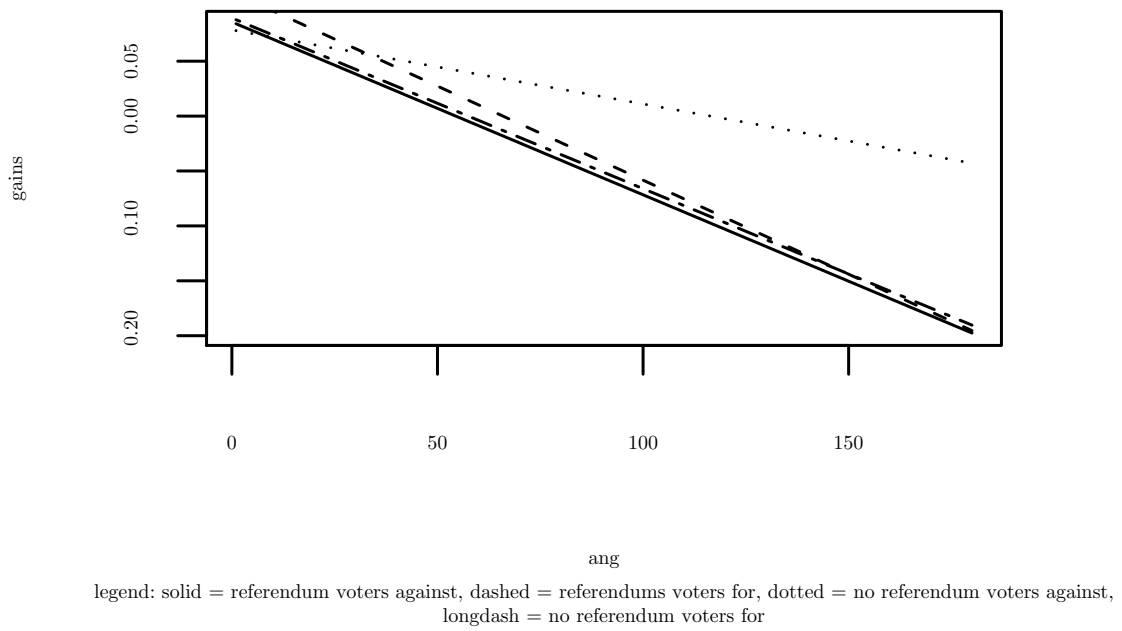
Appendix

In this appendix I first in tables 4 I report the estimation results of the ordinal factor analysis, where λ_1 may be interpreted as the difficulty of the item, while λ_2 and λ_3 estimate the effect of the corresponding variable on the first and second dimensions of the factor analysis. Table 7 reports the descriptive statistics of the variables used in the empirical analysis reported in table 3.

Table 4: Questions employed and factor scores

No	Question	λ_1 (s.e.)	λ_2 (s.e.)	λ_3 (s.e.)
	DOSEI Expert survey			
Q1	1. Charter of fundamental rights	2.240	0.930	0.390
		(0.560)	(0.600)	(0.980)
Q2	2. Subsidiarity	-1.180	-0.250	0.340
		(0.360)	(0.710)	(0.680)
Q3	3. Religious reference in the preamble of the constitution	0.360	0.150	-0.140
		(0.270)	(0.450)	(0.460)
Q4	4. Right to withdraw from the union	0.410	0.240	-0.380
		(0.290)	(0.590)	(0.540)
Q5.A	5.1 Objectives: market economy	1.830	0.880	-0.240
		(0.460)	(0.760)	(0.980)
Q5.B	5.2 Objectives: employment	1.690	0.450	0.240
		(0.370)	(0.530)	(0.620)
Q5.C	5.3 Objectives: High level of competitiveness	1.470	0.390	-0.550
		(0.430)	(0.930)	(0.870)
Q6	6. Presidency european council (term)	0.910	0.740	0.140
		(0.350)	(0.620)	(0.870)
Q7	7. Election of the president european council	-0.600	-0.180	0.710
		(0.330)	(0.910)	(0.700)
Q8	8. Qualified majority threshold	0.700	0.850	0.020
		(0.330)	(0.630)	(0.930)
Q9	9. Composition commission	-0.910	0.810	-1.010
+ Q2907	At least one Commissioner from each member state, after enlargement?	(0.450)	(1.260)	(1.130)
Q10	10. Appointment / election of the commission president	-1.000	-0.180	0.180
		(0.330)	(0.600)	(0.600)
Q11	11. Appointment of commissioners	-0.150	1.010	-0.090
		(0.350)	(0.780)	(1.130)
Q12	12. External representation of the union	1.890	0.830	0.150
		(0.410)	(0.620)	(0.930)
Q13.a	13.A Appointment of the EU foreign minister	1.390	1.030	0.070
		(0.460)	(0.950)	(1.280)
Q13.b	13.B Approval of EU foreign minister by EP	-0.450	-0.420	0.260
		(0.300)	(0.640)	(0.700)
Q14	14. Jurisdiction	1.250	0.310	0.670
		(0.370)	(0.810)	(0.650)
Q15.B	15.2 Right of initiative of legislative acts: European Parliament	-1.240	-0.380	0.860
		(0.410)	(1.120)	(0.880)
Q15.C	15.3 Right of initiative of legislative acts: Council	-1.560	-0.020	-0.170
		(0.430)	(0.680)	(0.690)
Q15.E	15.5 Right of initiative of legislative acts: citizens	-0.710	0.670	-0.320
		(0.360)	(0.730)	(0.850)
Q16	16. Enhanced Cooperation: scope	1.910	1.590	-0.970
		(0.620)	(1.510)	(1.700)
Q17.1	17.1 Delegation of competencies: agriculture	1.400	0.040	0.380
		(0.380)	(0.590)	(0.520)
Q17.2	Q17.2 Structural and cohesion policies	-1.190	0.120	0.930
		(0.430)	(1.150)	(0.880)
Q17.3	17.3 Delegation of competencies: area of freedom, security and justice	2.010	1.010	-0.260
		(0.490)	(0.840)	(1.140)
Q17.4	17.4 Delegation of competencies: foreign policy	-0.100	1.280	-0.050
		(0.400)	(0.960)	(1.410)
Q17.5	Q17.5 Economic policy	-0.430	0.780	0.640
		(0.360)	(0.940)	(1.070)
Q17.6	17.6 Delegation of competencies: tax harmonization	-0.730	0.940	0.790
		(0.410)	(1.100)	(1.210)
Q17.7	Q17.7 Employment policy	-0.620	0.350	1.050
		(0.390)	(1.220)	(0.950)
Q17.8	17.8 Delegation of competencies: social policy	-0.730	0.890	0.800
		(0.420)	(1.150)	(1.240)
Q17.9	17.9 Delegation of competencies: health	-0.380	0.510	0.360
		(0.320)	(0.680)	(0.780)
Q17.10	Q17.10 Enviroment	-0.710	0.140	1.160
		(0.400)	(1.320)	(0.950)
Q17.11	17.11 Delegation of competencies: education	-1.050	0.280	0.760
		(0.390)	(0.980)	(0.820)
Q17.12	17.12 Delegation of competencies: research, technological development and space	0.080	1.020	0.110

No	Question	λ_1 (s.e.)	λ_2 (s.e.)	λ_3 (s.e.)
		(0.360)	(0.810)	(1.180)
Q18.A2	18.A2 Involvement of the parliament: structural and cohesion policies	1.650	0.030	0.240
		(0.420)	(0.630)	(0.620)
Q18.A3	18.A3 Involvement of the parliament: area of freedom, security and justice	0.300	0.700	-0.230
		(0.320)	(0.700)	(0.880)
Q18.A5	18.A5 Involvement of the parliament: tax harmonization	-0.790	1.310	-0.080
		(0.430)	(0.970)	(1.440)
Q18.A6	18.A6 Involvement of the parliament: monetary policy (for the Euro-States)	0.700	0.850	0.510
		(0.380)	(0.900)	(1.090)
Q18.A7	18.A7 Involvement of the parliament: economic policy	0.620	0.700	0.620
		(0.380)	(0.910)	(1.000)
Q18.A8	18.A8 Involvement of the parliament: employment policy	1.540	0.720	-0.240
		(0.460)	(0.960)	(1.070)
Q18.A9	18.A9 Involvement of the parliament: social policy	0.530	0.680	-0.800
		(0.370)	(1.100)	(1.010)
Q18.A10	18.A10 Involvement of the parliament: social security rights	-0.333	1.286	0.749
		(0.430)	(1.190)	(1.510)
Q18.A11	18.A11 Involvement of the parliament: common foreign policy	-0.648	1.082	0.021
		(0.380)	(0.830)	(1.210)
Q18.A12	18.A12 Involvement of the parliament: defense policy	-1.564	1.314	0.043
		(0.510)	(0.950)	(1.450)
Q18.B1	18.B1 Council voting rule: agriculture	0.890	-0.110	0.570
		(0.360)	(0.770)	(0.640)
Q18.B2	18.B2 Council voting rule: structural and cohesion policies	2.110	-0.260	0.750
		(0.570)	(0.980)	(0.810)
Q18.B3	18.B3 Council voting rule: area of freedom, security and justice	0.300	0.600	0.310
		(0.320)	(0.700)	(0.830)
Q18.B4	18.B4 Council voting rule: internal market	1.560	-0.060	0.650
		(0.460)	(0.920)	(0.750)
Q18.B5	18.B5 Council voting rule: tax harmonization	-0.770	1.350	0.870
		(0.470)	(1.330)	(1.630)
Q18.B6	18.B6 Council voting rule: monetary policy (for the Euro-States)	0.270	0.100	1.390
		(0.430)	(1.520)	(1.020)
Q18.B7	18.B7 Council voting rule: economic policy	0.320	-0.070	1.520
		(0.450)	(1.650)	(1.080)
Q18.B8	18.B8 Council voting rule: employment policy	0.650	0.560	1.330
		(0.460)	(1.490)	(1.180)
Q18.B9	18.B9 Council voting rule: social policy	0.650	0.270	0.080
		(0.310)	(0.570)	(0.610)
Q18.B10	18.B10 Council voting rule: social security rights	-0.316	0.612	1.118
		(0.400)	(1.280)	(1.120)
Q18.B11	18.B11 Council voting rule: common foreign policy	-1.566	0.281	1.063
		(0.520)	(1.260)	(0.990)
Q18.B12	18.B12 Council voting rule: defense policy	-1.575	0.297	1.046
		(0.520)	(1.270)	(0.980)
Q19	19. Involvement of the parliament in the adoption of the budget	0.330	0.200	0.050
		(0.280)	(0.420)	(0.470)
Q20	20. Stability and growth pact	-0.270	-0.150	0.350
		(0.300)	(0.590)	(0.540)
Q21	21. Stability and growth pact	0.370	0.240	0.220
		(0.300)	(0.550)	(0.570)
Q22	22. Common security and defense policy	0.340	1.920	-0.480
		(0.470)	(1.280)	(1.940)
Q23	23. Management system for external borders (scope of union action)	0.870	0.560	0.100
		(0.330)	(0.530)	(0.720)
Q24	24. Migration and asylum policy: scope of union action	0.730	1.170	-0.850
		(0.420)	(1.160)	(1.310)

Table 5: Cutoff points (γ) for ordinal variables in factor analysis

cutoff point	b (s.e.)
Q1.2	1.526
	(0.490)
Q3.2	0.179
	(0.113)
Q3.3	0.945
	(0.190)
Q3.4	1.486
	(0.239)
Q4.2	1.431
	(0.295)
Q5.A.2	1.567
	(0.418)
Q5.B.2	1.809
	(0.353)
Q5.B.3	2.786
	(0.405)
Q6.2	1.141
	(0.319)
Q8.2	0.676
	(0.240)
Q8.3	1.897
	(0.359)
Q9.2	0.295
	(0.200)
Q10.2	0.893
	(0.364)
Q11.2	0.194
	(0.127)
Q12.2	1.287
	(0.359)
Q12.3	4.219
	(0.541)
Q14.2	2.482
	(0.418)
Q16.2	2.086
	(0.661)
Q17.1.2	2.443
	(0.464)
Q17.3.2	1.634
	(0.424)
Q18.A2.2	0.350
	(0.220)
Q18.B2.2	0.480
	(0.359)
Q19.2	0.502
	(0.177)
Q22.2	0.948
	(0.285)
Q22.3	3.825
	(0.423)
Q23.2	1.582
	(0.336)
Q24.2	0.443
	(0.258)
Q24.3	1.508
	(0.364)

Table 6: Factor analysis (λ) for parties and voters

no	question	λ_1 b (s.e.)	λ_2 b (s.e.)	λ_3 b (s.e.)
Q2902	For or against - one common foreign policy	-3.547 (0.729)	1.721 (0.707)	-2.597 (0.946)
Q2903	For or against - common defence and security policy	-3.239 (0.448)	1.131 (0.415)	-1.521 (0.538)
Q2906	For or against - A constitution for the EU	-2.908 (0.449)	1.262 (0.527)	-1.756 (0.598)
Q2907	For or against - the EC commissioners coming from each of the member states	-0.910 (fixed)	0.810 (fixed)	-1.010 (fixed)
Q3003	Agree ot not - The EU should have its own Foreign Minister, who can be the spokesperson for a common EU position	-2.815 (0.418)	1.257 (0.606)	-2.062 (0.527)
Q3009	Agree ot not - The EU should have a common immigration policy towards people from outside the EU	-3.182 (0.653)	-0.304 (0.441)	-1.206 (0.556)
Q3010	Agree ot not - The EU should have a common asylum policy towards asylum seekers	-2.598 (0.402)	0.072 (0.467)	-0.784 (0.410)
Q31	In your opinion, should decisions concerning European defence policy be taken by national government, NATO or EU?	1.888 (0.151)	-0.258 (0.341)	1.026 (0.233)
Q32	The presidency of the Council is taken by each country in turn, for a period of six months	0.417 (0.167)	0.616 (0.304)	0.468 (0.304)
Q33	Opinion about the right of veto	-1.029 (0.264)	1.238 (0.462)	0.293 (0.440)
Q34	Preferred voting method within the EU Council of Ministers	-1.848 (0.280)	1.075 (0.445)	0.159 (0.463)

Table 7: Descriptive statistics

var	min	mean	max	s.d.	N
gains overall	-0.02250	0.7311	1.122	0.367	25
gains at IGC	-0.089	0.019	0.092	0.065	25
Referendum before end of IGC	0.000	0.360	1.000	0.490	25
Absolute value of angle	1.680	66.690	179.850	53.518	25
voters for	0.000	0.560	1.000	0.507	25

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