

**THE POLITICS OF PREPARATION: THEORISING DELEGATED PRE-DECISIONS
AND THEIR EFFECTIVENESS IN INTERNATIONAL NEGOTIATIONS**

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by

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Abstract

This paper conceptualises and theorises a ubiquitous yet under-researched phenomenon: the preparation of decisions by civil servants, delegated to pre-negotiate and pre-decide what will ultimately need to be agreed at the highest political level of a decision-process. Focusing on complex international negotiations, the paper tackles two wider theoretical questions: 1) what is preparation and what can it do? and 2) under which conditions will preparation be effective? The argument proceeds in three steps. First, possible functions of preparation are categorised as "pre-negotiation" and "pre-decision-making", theoretically derived from rational choice and sociological institutionalism respectively. To explain whether a preparatory agent will merely channel principals' preferences (pre-negotiation), or stands a chance of effectively "cooking the books" (pre-decision-making) the paper, second, assesses collective issue and process resources (expertise, experience and information; mandate, familiar interaction and institutional context) before, third, theorising the role played by the nature of pre-agreement. The paper shows that despite the necessity of collective capabilities, in multi-issue, multi-level and long-term negotiations, preparatory effectiveness, first and foremost, hinges upon the nature of pre-agreement and will be greatest in case of reasoned consensus.

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Introducing Delegated Preparation: Political Praxis and Academic State of the Art

Delegated Preparation as Everyday Political Praxis

This paper investigates a ubiquitous yet under-researched and under-theorised phenomenon: the preparation of political decisions by civil servants, mandated to pre-negotiate and pre-decide what will ultimately need to be agreed at the highest political level of a decision-process. While examples are legion—reaching from legislative drafting in national ministries, over the role played by the Committee of Permanent Representatives (COREPER) in European Union (EU) decision-making, to expert committees in international organisations—this paper focuses on conceptualising delegated preparation in multi-issue, multi-level and long-term international negotiations, and asks two wider theoretical questions: 1) what is preparation and what can it do? and 2) under which conditions will preparation be effective?

In both domestic and international politics it is, indeed, common practice to delegate the preparation of political decisions, and to do so to an often substantial degree. In the American parliamentary context, it has, for instance, been claimed at the end of the 19th century already that "[w]hen a committee is properly selected, in nine cases out of ten its action decides that of the assembly" (Robert 1876, quoted in Goodin 2004, 12). Similarly, and turning to the arena of administration, in addition to executing national laws, ministerial bureaucracies frequently "pre-cook" legislation, drawing on their structural advantages *vis-à-vis* parliamentarians and politicians, such as expertise, continuity of membership and contacts with lobbyists (Niederhafner/Speth 2004). At the European level as well, solutions found in Council working groups are often but rubberstamped in COREPER before reaching the ministerial agenda as "A-points" that are ratified without discussion. Even for the alleged "high politics bastion" of EU Intergovernmental Conferences (IGCs), a former negotiator claimed that "over 95 per cent of the work" is done by government representatives at the preparatory level (Stubb 2002, 15), and a member of the Council Secretariat involved in EU treaty reform confirms that "any detailed question is negotiated there, and agreement on most issues is reached at that level" (Interv. Galloway 2005).

Considering this widespread use of civil servants and experts to prepare political decisions, the lack of systematic academic attention to the topic must surprise. Indeed, although negotiation theorists have studied the phenomenon of "pre-negotiation", they understand it as the phase of getting parties to the table prior to actually launching an international conference (Saunders 1985; Gross Stein 1989a), while little is known about which level needs to reach agreement for multi-layered and long-term negotiations to be successful. Political scientists, too, have largely bracketed the question of who—and on the basis of which resources—*de facto* decides a national law, a European directive or an international convention, and have instead focused on agenda-setting and implementation when studying instances of delegation (for the European context see a.o. Joerges/Neyer 1997; Pollack 1997 and 2003). The question raised in a recent study of decision-making in Council working groups—"What is left for ministers to decide?" (Fouilleux et al. 2005, 614)—is thus not only theoretically interesting and under-studied, but also of high political relevance.

The Academic Context: Theories of Delegation, Epistemic Communities and Administration

Nevertheless, although the question of delegated pre-negotiation and pre-decision-making has hitherto remained under-explored, it can be linked to two well-developed strands of academic research: to rationalism-driven work on (reasons for) delegation and principal-agent theory in comparative politics and International Relations (IR); and to constructivism-inspired studies on the role of knowledge, expert advice and epistemic communities in international politics.¹ In European studies, both strands have mainly been interested in delegation to supranational institutions and the impact of expert advice in agenda-setting (focusing on the European Commission) and in implementation (focusing on Comitology), while looking considerably less at the delegation of decisions themselves or at the impact of the preparatory process on political outcomes.

Indeed, any attempt at conceptualising delegated preparation will, first, overlap to a degree with principal-agent theory and the study of delegation, in particular with its interest in boundedly rational principals delegating for a variety of reasons: an agent's policy-expertise, a situation's uncertainty, informational asymmetries, and principals'

¹ This paper capitalises International Relations when talking of the academic discipline while using lower case for the empirical phenomenon.

problems in making and guaranteeing credible commitments (Bendor et al. 2001; Pollack 2002; Tallberg 2002). This paper's conceptualisation of delegated preparation will, however, diverge from two assumptions commonly made in principal-agent theory: first, that a principal's and an agent's preferences will necessarily conflict, and, second, that similar conflict and a principal's lack of information will result in "agency costs" imposed on the principal "by an inability to align the agent's self-interest" (Miller 2005, 204; see also Moe 1984). These assumptions are echoed both in "confrontational" typologies, leaving principals and agents only with the possibilities of delegate/not delegate and work/shirk (Bendor et al. 2001, 235), and in European studies, where principal-agent research mainly focuses on the degree of discretion that the Commission and the Court of Justice have *vis-à-vis* EU member states (Pollack 1997 and 2003).

This paper, on the contrary, is interested in the vertical delegation of preparation within a single, albeit multi-layered, decision-process, and in how a preparatory agent effectively uses its collective capabilities, less to shirk than to accomplish its task of discharging the principals at the top-political level. Furthermore, in contrast to most principal-agent studies that focus on "the first step of delegation, i.e. on defining the conditions under which delegation takes place and the level of discretion allocated to the agent" (Rasmussen 2005, 1019), the scope will be wider and include a much-neglected question in rationalism-inspired delegation research: the explanation of an agent's "everyday behaviour", of interaction and of decision-making once delegation has been completed, and of preference change within a group of delegated pre-negotiators.

The above-mentioned interest in an agent's informational advantage and expertise links both the study of delegation and the question of preparation with the debate about epistemic communities and the role of expert advice in international politics. Attempting to improve the "explanations of certain classes of international policy coordination in which technical uncertainty is prominent" (Sebenius 1992, 325), similar studies have, first, defined epistemic communities as networks "of professionals from a variety of backgrounds", who not only hold in common causal and principled beliefs as well as notions of validity, but make authoritative claims to policy-relevant knowledge (Haas 1992, 3 and 16). Second, uncertainty face to the increasingly complex and technical nature of international issues, as well as the resulting need for information are singled out as conditions under which policy-makers are likely to seek expert advice (Haas 1992, 7ff.). Finally, experts' ways of exerting influence are explored in the

process of policy-evolution, comprising policy innovation, diffusion, selection, persistence, and learning (Adler/Haas 1992, 372ff.).

Both the cognitive and epistemic approach to interaction and the interest in "the possibility that actors can learn new patterns of reasoning and may consequently begin to pursue new state interests" (Haas 1992, 2) will be key components in explaining effective preparation. In fact, the concept of epistemic communities has been successfully applied in a study of the *Delors Committee* as an instance of delegated preparation in the Maastricht IGC (Verdun, 1999). For this paper's conceptual purpose it will, however, be difficult to systematically liken delegated pre-negotiators with epistemic communities, as the former are bound less by shared normative, principled and causal beliefs, than by a mandate that includes, yet goes beyond, the provision of expertise and knowledge, and that, to an extent, turns a preparatory agent into a policy-maker, rather than a policy-advisor.² The debate on epistemic communities will, nevertheless, be used for two purposes: to theoretically embed the discussion of preparatory capabilities, and to add a cognitive dimension to the analysis of delegated negotiation.

Finally, in the 1950s and 1960s already, political science and administrative studies debated the issue of pre-decision-making in bureaucracies, albeit from a more normative angle, when the question about the appropriate roles and functions of the executive, the legislative and the administration in initiating, taking and implementing political decisions was tied to the separation of powers as a constitutional principle (Grauhan 1969 and 1970). More specifically, they discussed whether the initiation and preparation of decisions by the executive—including the administration—was to offer options to the legislative, that underwent public debate, or to present but one proposal, that obtained legitimation by legislative acclamation. Pleading for a strict separation of the three functions of leadership—to initiate proposals, to choose among alternatives, to control implementation—the use of a mandate to prepare in order to pre-decide was thereby attacked on both functional and normative grounds (Grauhan 1969, 23).

² Haas himself has explicitly delimited epistemic communities from interest groups, disciplines and professions, as well as legislators and bureaucratic agencies (Haas 1992, 18), without, however, including *ad hoc* or standing committees, mandated to prepare political decisions and falling in between the categories of "advice" and "decision-making" in his typology.

The Paper's Argument and Approach

In addition to these three differently focused bodies of literature, over the last years a (still rather limited) stream of research has emerged in European studies that is theoretically and empirically closely related to this paper's focus: research on decision-making in Comitology committees, Council working groups and COREPER. With few exceptions, these studies contribute to the rationalist-constructivist divide in IR, and are mainly interested in defining group-internal interaction modes as well as in linking these with the nature of the decision-body, rather than with its influence. This is certainly true for the studies of problem-solving as opposed to bargaining in COREPER (Elgström/Jönsson 2000) and of the "Methods of Community" in the Council of Ministers (Lewis 1998 and 2000); for the link between decision-styles in working groups and the supranational-intergovernmental divide (Beyers/Dierickx 1998); and for research on deliberation in Comitology committees (Joerges/Neyer 1997). Only recently have researchers begun to explicitly discuss the link between a certain decision-style and the effectiveness of a policy-output (Neyer 2004), and have theorised the technical pre-agreement of political decisions (Fouilleux et al. 2005).

Against the backdrop of these two last-mentioned studies and the ubiquity of delegated pre-decision-making as political praxis, this paper strives to give analytical cut to the under-theorised phenomenon of preparation—as those legal, technical and political negotiations through which civil servants and experts "pre-cook" decisions that are ultimately to be taken at the top-political level. This will be done in three steps. A first conceptual section discusses possible functions of preparation in international negotiation, and bundles these in the two categories of "pre-negotiation" and "pre-decision-making", theoretically derived from rational choice and sociological institutionalism. In order to then explain whether a preparatory agent will merely channel a principal's preferences (pre-negotiation) or stands a chance of effectively "cooking the books" (pre-decision-making), section 2 assesses a preparatory agent's issue and process resources, while section 3 theorises the role played by the nature of pre-agreement reached at the preparatory level. The paper shows deductively that, in spite of the necessity of collective capabilities, in complex international negotiations preparatory effectiveness, first and foremost, hinges upon the nature of pre-agreement and will be greatest in case of reasoned consensus. While remaining on an abstract level, the framework developed here is designed to throw new light upon a neglected

phase in multi-layered decision-processes, upon the role played by substantive and procedural capabilities, and upon the link between negotiation processes and the stability of negotiation outcomes. As such, it is applicable to a plethora of empirical phenomena in domestic, European and international politics, closely linked to questions of "agencification" (Pollack 2003, 16) and *de facto* decision-power.

What Is Preparation and What Can It Do? Two Approaches

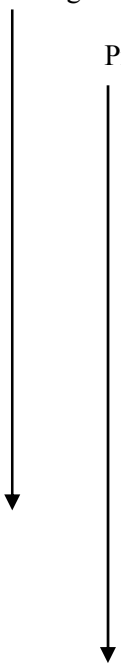
Functions of Preparation in International Negotiation

The preceding has touched upon the reasons for delegation as singled out in principal-agent theory, most prominently an agent's expertise, a situation's uncertainty, and a principal's interest in ensuring credible commitments. The following focuses more specifically on conceptualising and categorising the different functions fulfilled by an agent delegated to prepare international negotiations. Indeed, face to the complexity of multi-issue and multi-party decision-arenas, it is near-inevitable to split the negotiation process into a number of sub-processes (Midgaard/Underdal 1977, 336). Vertical delegation—i.e. delegation to subordinates within negotiation parties—is thereby sought to respond to a) delegations' different values, interests, and perceptions; b) the difficulty of making utility-calculations; and c) the heterogeneity of assessment criteria. Cognitive negotiation research has claimed, yet not comprehensively argued, that the larger and the more complex negotiations are, the more likely it is that agreements concluded in formal plenaries will but confirm what was decided at subgroup level (Midgaard/Underdal 1977, 338).

In a multi-issue, multi-level negotiation, vertically delegated preparation can fulfil a plethora of functions. Prior to actual negotiation and decision-making, these include the provision of information and expertise, the brainstorming about a possible agenda, potential solutions and likely constraints, or the generation of a positive atmosphere; throughout the negotiation process, preparation contributes to complexity-reduction and problem-definition, agenda-setting and the teasing out of positions, the movement from the abstract to the concrete and the tabling of options; and, at the decision-stage itself, the preparatory level drafts and amends texts, seeks consensus and crafts compromises.

In order to render these functions analytically more fruitful, they can be systematically bundled in a "process of preparation"—an integrated part of decision-making consisting of five steps: 1) delimiting a problem (i.e. what is the negotiation to deal with?); 2) framing a problem (i.e. what is the issue an instance of?); 3) analysing causes (i.e. what are the problem's origins and, based on these, possible remedies?); 4) suggesting solutions (i.e. advancing claims or offering justified propositions in view of steps 1-3); and, 5) reaching pre-agreement (i.e. converging towards consensus or crafting a compromise). Depending upon the steps reached, a taxonomy of preparatory categories—pre-negotiation, implying the successful solution of steps 1-4, and pre-decision-making, requiring all five steps to be completed—can be distilled.³ Theoretically derived from rational choice and sociological institutionalism, the categories are distinguished along two dimensions: first and substantively, a preparatory agent's potential impact upon the political level; and, second and procedurally, expectations about the process of delegation and negotiation.

Table 1: Preparation—Process, Functions, Categories

Process	Functions	Categories
Step 1 Problem-Definition	Agenda-setting	Pre-negotiation  Pre-decision-making
Step 2 Problem-Framing	Complexity-reduction	
Step 3 Causal Analysis	Moving from the abstract to the concrete	
Step 4 Suggesting Solutions	Tabling options by advancing backed claims or justified propositions	
Step 5 Pre-Agreement	Drafting and amending texts to seek consensus or to craft a compromise	

³ In view of the paper's interest in decision-making itself, a possible third category, "pre-discussion" as the preparatory stage prior to the effective launch of an international conference, will not be considered.

Before elaborating on pre-negotiation as a preparatory category, it should be stressed again that the term is used differently here than is common practice in negotiation theory. Albeit analysing related issues—such as complexity-reduction or purposive periods of transition to move parties from conflicting to cooperative perceptions (Zartman 1989, 243)—pre-negotiation theorists are mainly interested in the impediments to and pre-conditions for permitting "parties to a protracted conflict to agree to negotiate" (Gross Stein 1989b, 231). This paper, on the contrary, looks at pre-negotiation as a functional part of an already launched international conference, where the large number of parties and issues as well as the negotiation's longitude necessitate the vertical delegation of negotiation tasks. As suggested above, in a process of preparation, pre-negotiation thereby implies a preparatory agent to successfully complete the first four steps, i.e. to define and frame a problem, to analyse its causes and to suggest solutions.

With regard to substantive impact, when choosing pre-negotiation as analytically prior, the preparatory agent is conceptualised as a neutral medium between national principals' preferences and negotiation outcomes. Albeit crucial for successful agenda-setting, complexity–reduction, the turning of a negotiation to the concrete, and the tabling of options, it will accordingly play a purely functional and facilitating role, with limited chances for pre-agreement—be that compromise or consensus. This conception is exemplified in the description of a particular preparatory agent—working groups in the Council of Ministers—through a rationalist lens, assigning working groups

"formal importance but they do not really weigh heavily upon the policy process because they are essentially communication channels through which national interests are expressed. Members of working groups are bound by national instructions based upon preferences which are formulated in their respective capitals" (Fouilleux et al. 2005, 609).

A similar understanding of a preparatory agent as a "mere channel" builds on rationalist expectations of delegation and negotiation, in particular with regard to the rigidity of mandates, and the fixity of national preferences. Thus, rationalists conceive of mandating as a one-way, bottom-up process, leading from national capitals and domestic processes of preference formation to the international level, with the chances for supranational interaction to influence governmental positions top-down accordingly minimised (see a.o. Moravcsik 1993 and 1998). Furthermore, due their status as

hierarchically inferior national delegates, members of a preparatory body will be assigned a limited room for manoeuvre in rationalist theories, that focus on the national-individual character of delegates' mandates, rather than on the functional-collective task delegated to a preparatory agent by a multiple principal.⁴

On a wider theoretical level, such a focus on the individual negotiator and his instructions, rather than on the collective process of interaction and its transformative potential, is firmly grounded in rational choice institutionalism and the four key assumptions it has injected into the debate about international cooperation: first, focusing on institutional capacity to solve collective action dilemmas as an essential characteristic of political life; second, assuming that actors are utility-maximising, have fixed preferences and behave instrumentally; third, emphasising strategic interaction; and, fourth, adopting a functionalist approach to the question of institutional creation and change (Hall/Taylor 1996, 944). Applied to international processes of preparation, both horizontally (among the members of a preparatory agent), and vertically (between delegates and their national capitals) everyday institutionalised cooperation will thus at most have "thin" effects on actors' cost-benefit calculations and their strategies, while leaving their (national) preferences and identities unaffected (Risse 2002, 605). Although the technical-bureaucratic level of preparation is thus likely to play an effective role in facilitating the search for agreement at the highest-political level, pre-agreement itself is unlikely in cases other than those of low preference intensity: converging towards consensus would require both a degree of flexibility in national positions and the potential of horizontal as well as vertical persuasion, whereas crafting a compromise would hinge upon a degree of flexibility in trading and linking issues.

Pre-Decision-Making and Its Theoretical Foundation: Sociological Institutionalism

Contrary to pre-negotiation, pre-decision-making as analytically prior category would not only expect an agent to define and frame a problem, to analyse its causes and to suggest solutions, but to also complete step 5, i.e. to reach pre-agreement—be that reasoned consensus or bargained compromise. The preparatory agent is thus no longer

⁴ I am here offering a rather narrow and limited account of rationalism. Thus, with regard to mandating, principal-agent theory does account for a certain leeway in mandates (springing from combined uncertainty and expertise), yet focuses on shirking and agency loss rather than the possible feeding back of a collective agent's interaction into a principal's preferences. Equally, while Moravcsik emphasises the non-fixity of national preferences and traces their genesis and change, he does hold them constant for the process of international interaction.

conceptualised as a "transmission belt" (Risse 2004, 312) between preferences and outcomes, but as "cooking the principals' books". Accordingly, it will not only be assigned formal importance and a key role in facilitating the highest political level's search for pre-agreement, but will be considered a decision-maker in its own right, as well as an arena of preference-formation and preference-change. Again, the above assessment of Council working groups seems instructive in this respect. Thus, for constructivists—and sociological institutionalists more specifically—working groups

"play [...] [an] active role in EU decision-making because they are arenas, or even social groups, within which preferences are bargained over and also where the very rules governing such negotiations are defined. [...] [m]embers of Council working groups go beyond the mere function of negotiating between pre-existing interests. Instead they contribute to redefining European public problems, the rules and norms that structure negotiation and sometimes even the very identities of the actors involved" (Fouilleux et al. 2005, 610).

Similarly, the interest in a preparatory agent's potential role as decision-maker through the transformative impact of everyday interaction is grounded in sociological institutionalism, assuming national mandates to offer delegates greater leeway, and preferences to be endogenous rather than exogenous to social interaction. Thus, although acknowledging the fact that members of a preparatory body are national representatives, sociological institutionalists ascribe the process of mandating an additional, top-down or vertical function, through the potential of "two-level arguing" (Risse 2004, 312). This potential is closely linked to the idea that preparatory mandates—granted by a group of principals engaged in the same international conference albeit at a different level—will always have a collective-integrative, in addition to a national-strategic function.

On a wider theoretical scale, sociological institutionalism therefore privileges the study of social interaction and its transformative impact over the analysis of negotiators as national delegates, and assumes that individual behaviour may change "in the presence of conditions that are unique to social groups *qua* social groups" (Johnston 2001, 487, italics in the original). A focus on pre-decision-making as a preparatory category will thus need to subscribe to the "thick" or transformative potential that international cooperation can have on negotiators' preferences and positions—both through horizontal, everyday cooperation within a preparatory body, and through the vertical influence that cooperation can exert on domestic processes of preference formation (Risse 2002, 599). Indeed, only if negotiators at the technical-bureaucratic level either have enough material leeway to trade and link issues, or if preferences emerge and

adapt endogenous to a preparatory agent's everyday interaction or to its normative environment, can we expect preparation to matter beyond the reduction of complexity and the functional provision of expertise, and to effectively pre-take political decisions.

The two analytical categories of pre-negotiation and pre-decision-making are thus based on different assumptions about a) a preparatory agent's potential impact upon the political level (facilitation versus pre-agreement); b) the processes of delegation and negotiation (fixed versus flexible mandating, and exogenous versus endogenous preferences); and c) underlying logics of action (individual consequentialism versus social communication).

By depicting and theoretically grounding the different functions of preparation in international negotiations, the paper's first question—what is preparation and what can it do?—has been tentatively answered. Considering the additional interest in explaining the effectiveness of preparation, the next section will derive two sets of conditions, the first conducive to a preparatory agent's decision-capacity, the second to its impact-potential upon the political level: collective capabilities and the type of pre-agreement.

Effective Preparation I: A Preparatory Agent's Collective Capabilities

Defining Effectiveness and the Notion of Capabilities

Before embarking upon this two-level analysis, the use of effectiveness needs to be specified, in view the paper's focus on complex international negotiation, and the above-discussed reasons behind vertically delegating preparation. Effectiveness—in the sense of realised intention or "goal attainment" (Neyer 2004, 22)—is here understood in procedural rather than quantitative or substantive terms, and relates to how decisions taken at the technical-bureaucratic level are followed up in the hierarchically superior arena. Assuming that the higher level can a) defer, b) re-open, and c) rubberstamp decisions, preparation is considered to be most effective where decisions are rubberstamped, and where principal decision-makers are thus discharged the furthest.⁵

⁵ This paper looks at the topic from a purely theoretical-analytical perspective without engaging in normative considerations—although effectiveness as defined here leads to obvious trade-offs with regard to the accountability and democratic character of decision-making.

As a similar definition, in turn, builds on the analytical priority of pre-decision-making rather than pre-negotiation, the next section derives two factors that facilitate pre-decisions: collective capabilities (as characterising a preparatory body's actorness) and the nature of pre-agreement (as affecting inter-level relations).

The notion of capabilities is a much-used yet contested concept in studies of international negotiation, and of international relations more generally. Used interchangeably with the ideas of "power" and "resources", Realists have thereby focused on state-specific assets and their role in instigating either violent conflict or non-violent cooperation, with military forces, technological resources, allies, population size, and economic strength as defining factors (de Mesquita et al. 1997, 2111; for a criticism see Moravcsik, 1997). Looking at (international) negotiation more narrowly, rational institutionalists have instead emphasised actors' relative power as resulting from the asymmetrical distribution of information and from exit options (Moravcsik 1993); while Habermasian theories and constructivism-inspired approaches to decision-making have respectively stressed the "power of the better argument" (see a.o. Müller 1994; Risse 2000; Steiner et al. 2005), and the role of epistemic resources (see a.o. Haas 1992). In European studies more specifically, actor-based material, informational and reputational resources have been used to explain supranational entrepreneurship and its success in driving the European integration process (Beach 2005).

This paper defines capabilities as an agent's perceived capacity and scope to act, based on the possibility of recurring to resources as context-bound "bundles of means". More specifically, true to the paper's conceptual interest in delegated preparation as a functional part of institutionalised negotiation—rather than in the likelihood of interstate conflict or cooperation as such—as well as the theoretical subscription to sociological institutionalism and its "thick" assumptions about social interaction, the following will look at issue and process resources as two sets of capabilities: first and functionally, as those assets distinguishing a preparatory agent from actors negotiating at other levels, and, second, epistemically and socially, as group-specific problem-solving and interaction potential.

Issue Resources: Expertise, Experience and Information

In addition to being distinctive of a collective actor as well as distinct from the principals' assets, a preparatory agent's resources need to be task-specific and facilitate the effective preparation of a decision to be taken in a complex international context. Similar resources will thus have three characteristics: they will a) be agent-based, both at an individual and at a collective level; b) fulfil a functional purpose; and c) be context- and interaction-dependent for their full-fledged use. Issue resources as the first set of capabilities discussed here comprise three epistemic assets—expertise, experience and information—and substantially relate to the issue under consideration, both in a narrow sense and in its national and international embedding.

The first epistemic asset, *expertise* in the problem to be decided, grants negotiators not only an in-depth knowledge of the question's underlying logic and legal-technical problem-structure, but a comprehensive understanding of the issue's political background at the national level, and its embeddedness in the functioning of the international system as a whole. A crucial competence in complex and uncertain decision-situations, expertise and the resulting capacity to elucidate cause-and-effect relationships as well as possible solutions is also a prime reason for delegating preparation in the first place.

A preparatory agent's *experience* and *information* spring from its particular composition of civil servants and/ or experts, seconded either from national capitals or based more permanently in an international context. Thus, experienced in interacting internationally (a point to be detailed below), in negotiating the very issue in question or related matters, as well as in implementing political decisions on a day-to-day basis, members of a preparatory body are well-placed to assess the consequences of macro-decisions, both for everyday policy-making and for the overall functioning of the international system. Furthermore, international negotiation experience will equip pre-negotiators with an awareness of issue-specific national sensitivities or, alternatively, the necessary skills to tease them out. An example illustrates this point: in an EU Intergovernmental Conference, member states' Brussels-based Permanent Representatives have traditionally played a strong role in pre-negotiating and pre-deciding the Union's treaty base, while at the same time preparing secondary law based on these macro-norms, and following its domestic implementation. In addition, and contrary to the political

principals, a preparatory agent will have both a much broader perspective of how the international conference evolves *en grand*, and more detailed information about the specific issues and topics under consideration, discussing the entire range of problems, closely following the development of each, and accordingly able to assess substantive inter-linkages between them. Though crucial for reducing a negotiation's degree of complexity, informational breadth is an especially relevant issue resource when it comes to the search for pre-agreement and to compromise-crafting in particular.⁶

Process Resources: Mandate, Familiar Interaction and Institutional Context

In contrast to the above-discussed epistemic skills, process resources are procedural enabling factors, relating to a preparatory agent's required interaction capacities in multi-issue and long-term international negotiations. They can be of three kinds. First and functionally, the agent will be granted a *formal-institutional role* in the decision-process through a mandate, whose degree of leeway, combined with the negotiators' collective task perception—in particular a shared determination to succeed—will impact upon the preparatory body's decision-capacity.

Second and temporally, in contrast to political principals that will meet but on rare occasions in a long-term decision-process, members of a preparatory body *interact frequently, over substantial time periods, and in insulated settings*. In international negotiation, this asset can have several facilitating effects: first, in addition to knowing their substantive claims and positions, negotiators will become familiar with their co-delegates' personalities and interaction styles, and, in turn, get proficient in decoding related underlying messages; second, repeated interaction will give negotiators the chance of developing a relationship based on trust and reciprocity; and, third, frequent meetings and in-depth acquaintance will allow for informal contacts to other delegations, and thus for more efficient channels to tease out bottom-lines, missing pieces of information, and national sensitivities than are available in the framework of infrequent, formal encounters. This point can, again, be illustrated with an example from delegated preparation in European decision-making, where frequent interaction

⁶ In his study of supranational entrepreneurship and European integration, Beach (2005) has come up with a similar resource-typology. He differentiates between 1) material resources as formal institutional rights, 2) informational resources, including content and process expertise, as well as information on the state of play of the negotiations, and 3) reputation. However, whereas Beach looks at the role of individual actors' resources in pushing through specific interests, this paper's aim is to identify collective capabilities conducive to pre-decision-making.

among Permanent Representatives is argued to have led to similar procedural assets in COREPER—diffuse reciprocity, thick trust, mutual responsiveness, a consensus reflex, and a culture of compromise (Lewis 2000).

Third, in contrast to national principals, a preparatory agent will dispose of distinct *organisational-institutional resources* at the international level. These include, on the one hand, informal rules of conduct, that stabilise delegations' expectations about each others' behaviour, and thereby create space for substantive negotiation; and, on the other, easy access to professional back-up at the international level. Indeed, where (the preparation of) decision-making takes place in an *a priori* institutionalised international context (such as the EU or the World Trade Organisation (WTO)), permanent international staff will dispose of professional skills and an institutional memory that can be easily tapped by delegates that move frequently in the same international arena.

All three process assets will facilitate delegated preparation, allowing for trustworthy, reciprocal relationships, for stable expectations, and for a broader access to substantive information. At the same time, they stand in line with specific strands of negotiation theory that have emphasised the need of expanding our conception of interest to include process, relationship and principled interests in addition to material gains (Lax/ Sebenius 1986), and that have discussed the "integrative" and "cooperative" dimension of bargaining (for a good overview see Hopmann 2002).

The preceding has discussed collective capabilities as a first bundle of factors, enabling a preparatory agent to pre-agree rather than to pre-negotiate, international decisions. Yet, albeit necessary for pre-decision-making, particular resources on their own tell us little either about the likely type of outcome reached at the end of a preparatory process, or about an agreement's expectable impact on top-level decision-making. Thus, arguments based on legal knowledge and technical-scientific expertise, or on an understanding of the international system may contribute to developing consensus, as may trust and reciprocity as process assets. In turn, a preparatory agent's overview of the state of the various issues and topics tackled will offer opportunities for crafting a compromise; while the degree of informal contacts or the frequency of meetings will work in the favour of both. Overall, the first set of factors therefore allows to draw conclusions about the preparatory body's actorness, rather than about the effectiveness of preparation, understood in terms of inter-level interaction.

Table 2: A Preparatory Agent's Collective Capabilities

	Dimensions	Effects
Issue Resources (substantive assets: epistemic skills)	Expertise	Grasp of an issue's logic and legal-technical problem-structure, its national background, and its role in the international system
	Experience	Ability to assess the everyday consequences of macro-decisions + awareness of national positions or capacity to tease them out
	Information	Overview of the negotiation process <i>en grand</i>
Process Resources (procedural assets: interactive capacity)	Mandate	Formal role; potential to fill the margin of manoeuvre + collective task perception
	Frequent, long-term and insulated interaction	Familiarity with national positions and ability to "decode messages"; reciprocity and trust + informal channels to tease out bottom-lines/missing information
	Rules of conduct + professional back-up	Creation of stable expectations + access to organisational and substantive support

Effective Preparation II: The Nature of Pre-Agreement

Negotiation Complexity and Its Requirements

The previous section has looked at those collective capabilities that enable a preparatory agent to pre-agree a political decision, either through consensus-building or through compromise-crafting. The following part comes back to the above definition of effectiveness—as a pre-agreement's rubberstamping by top-level decision-makers—and redirects attention from the question of whether a decision can at all be reached at the technical level, to the kinds of agreement that can conclude a preparatory process and

their expectable follow-up treatments. Whereas a preparatory agent's issue and process resources are thereby considered necessary to reach either a compromise or a consensus, the chances for rubberstamping will be greater in case of reasoned consensus, while a bargained compromise is more likely to be deferred or re-opened—a claim rooting in the specific nature of both the pre-agreement and the negotiation context.

Indeed, as stated in the introduction, out of the plethora of national and international instances of pre-negotiation and pre-decision-making, this paper chooses to focus on preparation in complex negotiations, defined as multi-issue, multilateral, multi-level and long-term encounters. Each of these aspects has repercussions on what is functionally required from, as well as possible at, the preparatory level.

First, the co-negotiation of multiple issues among three or more delegations, coupled with the need of unanimity in most instances of international decision-making, has mixed effects on the process of reaching agreement. Thus, although the multiplicity of issues under discussion increases the opportunity of coalition-building around different problem-clusters, it will impede the formation of stable alliances; while a greater number of parties expands the conference's preference-portfolio, but makes the trading of concessions more difficult, as "the reciprocal exchange of concessions often loses its meaning in multilateral negotiation because a concession offered to one participant may have a differential effect upon the rest, and may even be considered by some as detrimental to their interests" (Touval 1989, 164). Second, as discussed in section 2, the more complex an international conference becomes, the more likely will be a "division of labour"—the splitting of the negotiation into sub-processes, with interaction thus co-evolving at different hierarchical and functional levels. A similar co-existence leads to parallel discussions, alternating between more and less political and politicised arenas, and multiplies both the need for agreement and the possibilities of re-opening at every level and at every stage. Finally, a conference's longitude will increase the frequency of both formal and informal encounters, and will mix the necessity of closing issues early on in the preparatory stage to reduce overall complexity, with the requirement of keeping issues open to use them as trade-offs.

As shown in the next two sections, it is the combination of a negotiation's longitude and its multi-level character that has the most pronounced repercussions on the types of pre-agreement required from preparation.

Bargained Compromise

Section 2 on the different functions and categories of preparation stated that the pre-agreement standing at the end of a bureaucratic preparation process can come in two forms: as a reasoned consensus or as a bargained compromise. Although both require the delegates in a preparatory body to dispose of substantial leeway or decision-capacity—to converge at the level of substantive preferences, or to link issues and to offer compensations—the two types of pre-agreement differ fundamentally with regard to a) the processes generating them, b) their characteristics as agreements, and c) their resulting chances of being taken over at the highest level of a decision-process.⁷

In a nutshell, a compromise can be defined as "the outcome of strategic bargaining processes [...] which is indirectly legitimated through the procedures that set the terms of a fair contest" (Eriksen 2005, 19). As a response to conflicting interests or principles, a compromise is not

"a synthesis, that all regard as superior to their previous position. Compromises must endorse a package, many of the components of which they would reject if taken in isolation. Though they consider the agreement as the most acceptable to all concerned, each retains his or her own view of what is best" (Bellamy/Hollis 1999, 64).

As such, a compromise agreement has three dimensions: first, the process leading towards it will be characterised by strategic moves, including threats, promises, or the exchange of concessions and compensations; second, resulting from delegations' willingness to concede on certain points rather than from converging positions, compromises are likely to be lowest common denominator outcomes, and, as such, will remain controversial (Golding 1979, 13)⁸; and, third, compromises are reached through linking and trading those individual issues that compose the overall agreement.

In complex negotiations, a compromise is likely to be effective—in view of its follow-up treatment—for two main reasons, both grounded in the procedure through which the outcome has been reached. First, in view of the negotiation's multi-level character, if a compromise is indeed indirectly legitimated by procedural fairness, and if a pre-agreed

⁷ Similar discussions have by no means been restricted to studies of international negotiation: political and social theorists debate the role of compromise as opposed to consensus and neutrality in liberal democracies (Bellamy/Hollis 1999); the types and degrees of compromise and conflict as glue or solvent in democratic market societies (Hirschman 1994); or the function of compromise as intervening mechanism face to conflicting «systèmes de justification» (Ricoeur 1991, 21).

⁸ I am here referring to the overall package, as delegations' preferences may well be satisfied on individual issues within the deal.

package resulting from a similar process has been judged as fair at the technical level, it is unlikely to meet with different procedural standards at the political level. Second, in multilateral, consensual decision-processes, a growing number of actors, on the one hand, will complicate the search for issue linkages and trade-offs, whereas, on the other, asymmetrical preferences, priorities and resources will enlarge the scope for package deals by way of "circular barter" (Touval 1989, 165). The resulting interrelatedness of the different elements of pre-agreement, as well as the high transaction costs associated with unanimity (Scharpf 1989, 157), make it exceedingly costly to unravel a pre-agreed package, that has accommodated all negotiation issues and parties.

At the same time, compromise agreements have been assessed as unstable and revocable—due to their lacking motivational appeal (Bellamy/Hollis 1999, 64), and as the principles represented in the agreement are less strong than the underlying conflicting ones (Ricœur 1991, 7II). Thus,

"whatever compromise is reached in the distribution of the social product between various classes, sectors, and regions, it is [...] clear to all concerned that agreements are temporary, are tied to the particular circumstances in which they were made, and can be reopened at the next opportunity" (Hirschman 1994, 214).

Indeed, the fact that compromises have "no independent compliance pull [...] apart from satisfying temporary preferences", may prove problematic, as "all actors on whom an outcome has been enforced have a strong incentive to defect as soon as possible" (Neyer 2004, 30). Pre-agreements based on the willingness to concede, rather than on the "objective values" of the goods involved or the problem-solving capacity of the outcome, are particularly vulnerable where a negotiation is run at multiple levels and extends over substantial time-spans. Problems will thereby spring, on the one hand, from the open-endedness of the process, with veto-opportunities built into every stage and every level, and, on the other, from the fact that the compliance pull of a pre-agreed compromise hinges upon its robustness as a single package. Thus, face to a multiplicity of parties, issues, and levels, interacting in the long term, it becomes very likely that one delegation challenges one element of the deal, and thereby undoes the basis for other delegations to agree, which had rooted in the conviction that the *overall* package was beneficial, rather than in preference-convergence on individual issues.

Reasoned Consensus

In delimitation from a compromise, a consensus can be defined as "the result of a process during which the members have reasoned through their disagreements to such a degree that at least one party has 'changed' her initial position" (Eriksen 2005, 19). A similar agreement has three dimensions: first, the process leading towards consensus is dominated by argumentative moves, such as questions, explanations and justifications; second, reflecting the change (and convergence) of positions, consensual results are likely to be far-reaching; and, third, persuasion will be the mechanism through which a similar agreement is reached.

In a complex, multi-level international negotiation, a preparatory process concluding with consensual pre-agreement is likely to effectively "cook the principals' books" for two main reasons, one procedural, the other substantive. First and procedurally, as defined above, consensus will emerge from a process of intensive "reasoning through" all delegations' disagreements. Unlike a compromise, which becomes the more vulnerable the longer a negotiation lasts, a consensual agreement will therefore draw stability from the longitude of interaction and from multiple veto-opportunities, a) because all parties at all levels are given the chance of explaining their positions and specific (national) sensitivities, b) as this feeling of "being accommodated" will yield "psychological returns", translating c) into delegations' identification with the mode of seeking agreement as an indirect legitimation of the outcome itself.

Second, in addition to a similar trans-level procedural legitimation, consensual pre-agreement can rely on its substantive pull to increase the chances of being taken over lock, stock and barrel at the political level. Indeed, where consent was not given because delegations held the overall package to be fair, were coerced into acceptance, or were materially compensated, but because at least one party was persuaded to change its preferences, an independent "compliance pull" must stem either from the agreement's problem-solving capacity, or from its resonance with external norms of validity. This argument has been adapted from deductive research on compliance with EU decisions, that has linked both the process of reaching a collective norm and its overarching substantive framework with its being obeyed (Neyer 2004, 31). A similar line of argumentation also implies that—contrary to a compromise whose robustness will always hinge upon the inter-linkage between negotiation issues and the accordingly

raised transaction costs of unravelling—the stability of consensual pre-agreement across levels will flow from the persuasive force, as well as the acceptance of, arguments clustering around individual issues, rather than from the package deal.

Table 3: Types of Pre-Agreement—Compromise and Consensus

	Compromise	Consensus
End-state	Package, controversy	Synthesis, convergence
Process	Strategic bargaining	Reasoning and justification
Mechanism	Concessions, issue-linkages	Persuasion
Cross-level pull	Substantive: none	Substantive: problem-solving capacity + resonance with external norms of validity
	Procedural: conditions of fair contest + costs of unravelling	Procedural: reasoning through all possible arguments

In upshot, if we assume that in complex negotiations decisions can be re-opened at every stage and at every level, due to either non-satisfied or changed preferences, or novel arguments to the contrary, a consensus will prove more resistant in view of both challenges. First, while the re-opening of an individual facet will undermine the very reason to accept a compromise—with the whole deal likely to be undone—a far-reaching agreement resulting from persuasion can remain intact on those aspects not directly concerned. Second, a novel argument targeted at challenging an agreement at a higher level is much less likely to stick where the agreement itself has emerged from a process of thorough and encompassing reasoning than from a process of strategic, non-argumentative moves, and where an agreement can rely on a procedural-substantive, rather than a purely procedural compliance pull.

Conclusions and Outlook

This paper set out to tackle the conceptual and theoretical research lacuna on a widespread phenomenon in international relations: the delegated preparation of political decisions by bureaucratic agents. It proceeded in three steps. First, the different functions of preparation in international negotiation—from the provision of information, over complexity-reduction to pre-agreement—were discussed and bundled in the two categories of pre-negotiation and pre-decision-making, based on rational choice and sociological institutionalism, and their respective assumptions about processes of mandating, the fixity of preferences, and underlying logics of action.

Whereas the opening section thus attempted to answer the paper's first research question—what is preparation and what can it do?—the following two parts tried to respond to the second—under which conditions can we expect preparation to effectively discharge political decision-makers? Thereby, a preparatory agent's collective capabilities—comprising issue resources such as expertise, experience and information, and process assets, such as mandate, familiar interaction, and institutional context—were considered a necessary condition for a preparatory agent to reach pre-agreement. However, in view of the distinct interaction context under consideration—multi-issue, multi-level and long-term international negotiation—the fourth section argued that preparatory effectiveness will be greatest where the technical level arrives at reasoned consensus: a bargained compromise will be effective in one-off, short-term, single-level interactions, that can be split into distinct phases, but under complexity it will but cover up preference variance likely to resurface at the top-level, whereas a consensus can rely on procedural and substantive inter-level pulls.

In upshot, this paper suggests that a preparatory agent's effectiveness in discharging political decision makers hinges upon a) a particular set of collective capabilities as a necessary condition, and b) on consensual pre-agreement as a sufficient one.

A similar conclusion suggests two future research avenues. First, a theoretical-analytical track would explore those scope conditions under which a preparatory agent is likely to arrive at consensual pre-agreement through a process of "delegated arguing", and test the derived hypotheses against empirical cases of delegated preparation—be these working groups in the EU's Council of Ministers, the "Group of Government

Representatives" in European treaty reform, or preparatory committees in the WTO. Second, a more normative route would follow up on the consequences that effective preparation may have for the transparency, accountability and democratic nature of international decision-making, and thus link sociological institutionalism and its theoretical emphasis on preference endogeneity with the normative repercussions that similar preference change could have for the democratic control and legitimacy of international decisions (for a similar approach see Zürn/Checkel 2005).

Both agendas would shed new light on a theoretically under-reflected, empirically under-studied, yet politically pressing question: how, by whom, and on the basis of which resources are political decisions actually taken?

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