

Notes

1 Introduction

1. The expression 'EU'/'European Union' is used throughout the book to streamline the presentation, although at times 'European Communities' (EC) or 'European Economic Community' (EEC) would strictly speaking be more appropriate.
2. The expression 'the Commission' is used throughout the book to streamline the presentation, although at times 'the Commission of the European Economic Community', 'the Commission of the European Communities' or 'the European Commission' would strictly speaking be more appropriate.
3. The story of the single sky committee and its meeting on 8 July 2010 is based on material from dossier CMTD(2010)0774 available at the Commission's comitology register (<http://ec.europa.eu/transparency/regcomitology/index.cfm>). The title of the Commission's amended regulation is Commission regulation (EU) no. 1191/2010 amending regulation (EC) no. 1794/2006 laying down a common charging scheme for air navigation services. It is published in *OJL* 333, 17 December 2010, pp. 6–20.
4. The expression 'the Council' is used throughout the book to streamline the presentation, although at times 'the Council of Ministers' or 'the Council of the European Union' would strictly speaking be more appropriate.
5. Simple search on all secondary acts in force divided according to author of act (<http://eur-lex.europa.eu/en/index.htm>).
6. The expression 'the codecision procedure' is used throughout the book to streamline the presentation, although at times 'the ordinary legislative procedure' would strictly speaking be more appropriate.

4 The Origins of Comitology

1. See Lindberg (1963, pp. 219–83), Groeben (1987, pp. 70–8, 101–8) and Moravcsik (1998, pp. 208–17). See also Commission President Walter Hallstein's (1962, pp. 54–6) vivid account of the marathon negotiations in the Council of Ministers in December 1961 and January 1962.
2. The following sections draw on Blom-Hansen (2008).
3. Before the merger treaty of 1965 was implemented, the European Economic Community (EEC), the European Coal and Steel Community (ECSC) and the European Atomic Energy Community (Euratom) published their own separate *Bulletins*. In 1968, a common monthly *Bulletin of the European Communities* took over. The different bulletins are abbreviated in the text – the *EEC-Bulletin* and the *EC-Bulletin*.

5 What is at Stake? A Case Study of the 2006 Comitology Reform

1. The case study also provides a basis for understanding the post-Lisbon negotiations on the comitology system (see Blom-Hansen, 2011a).
2. See, for example, article 17(4) in the market abuse directive (OJ L96/16, 12 April 2003); article 27(4) in the transparency directive (OJ L390/38, 31 December 2004); article 24(4) in the prospectus directive (OJ L345/64, 31 December 2003); article 64(3) in the directive on markets in financial instruments (OJ L145/1, 30 April 2004); and article 150(4) in the directive on the business of credit institutions (OJ L177/1, 30 June 2006).

7 Comitology Across Policy Areas

1. Directive no. 30/2009 on the specification of petrol, diesel and gas-oil and the monitoring of greenhouse gas emissions, article 11.
2. Regulation no. 1083/2006 laying down the general provisions on the European Regional Development Fund, the European Social Fund and the Cohesion Fund, article 103.
3. Directive no. 37/2001 on the approximation of the laws, regulations and administrative provisions of the member states concerning the manufacture, presentation and sale of tobacco products, article 10.
4. Regulation no. 1798/2003 on administrative cooperation in the field of valued added tax, article 44.
5. Since the three items have unequal ranges, I use dichotomized versions to construct the index. For the length of the decision-making process '0' equals less than 1 year (324 cases), while '1' equals more than 1 year (345 cases). For 'B-points' on the Council agenda '0' equals no B-points (468 cases), while '1' equals 1 or more 'B-points' (218 cases). For changed Commission proposal '0' equals no changed proposal (554 cases), while '1' equals a changed proposal (115 cases). A reliability test confirms that the three items measure the same underlying variable (Chronbach's alpha = 0.66), although this result should be interpreted with caution due to the dichotomous nature of the items.
6. Article 15 in Council regulation (EC) no. 384/96 of 22 December 1995 on protection against dumped imports from countries not members of the European Community; and article 25 in Council regulation (EC) no. 2026/97 of 6 October 1997 on protection against subsidized imports from countries not members of the European Community.
7. The number of cases varies across models in Table 7.3 because the dataset includes 13 member state initiatives for which it is not possible to compute the institutional conflict variable (since the Commission does not make the legislative proposal, two of the items in the conflict index cannot be computed). In addition, a few cases have missing values due to data missing in the PreLex or Eur-Lex databases.
8. The statistically significant sign of the legislative procedures that involve the European Parliament may appear puzzling. How can the codecision and consultation procedures, controlled for conflict, have a positive impact on the likelihood of inserting a comitology clause into a legislative act? It would

be misleading to interpret this as an indication that the European Parliament pressures for comitology committees since we know from the previous chapter that the Parliament's comitology preferences are more permissive than the Council's. The positive coefficient is more likely due to the fact that the legislative procedures to some extent also function as proxies for policy areas combined with the fact that comitology committees are more prevalent in areas with parliamentary involvement (cf. Table 7.1).

9. The non-binding guidelines for the choice of comitology procedure are stated in the 1999 comitology decision's article 2:

The choice of procedural methods for the adoption of implementing measures shall be guided by the following criteria:

- (a) management measures, such as those relating to the application of the common agricultural and common fisheries policies, or to the implementation of programmes with substantial budgetary implications, should be adopted by use of the management procedure;
- (b) measures of general scope designed to apply essential provisions of basic instruments, including measures concerning the protection of the health or safety of humans, animals or plants, should be adopted by use of the regulatory procedure; where a basic instrument stipulates that certain non-essential provisions of the instrument may be adapted or updated by way of implementing procedures, such measures should be adopted by use of the regulatory procedure;
- (c) without prejudice to points (a) and (b), the advisory procedure shall be used in any case in which it is considered to be the most appropriate.

Coding whether acts fall under these guidelines has been done conservatively. Only areas that are directly mentioned by the guidelines are coded. Consequently, areas covered by the guideline for the management procedure are the common agricultural policies and common fisheries policies, which are both directly mentioned in point (a). In addition, regional policy and 'science, information, education and culture' are coded as falling under this guideline because they arguably have 'substantial budgetary implications'. This amounts to 102 out of 686 cases. Areas covered by the guideline for the regulatory procedure are 'environment, health and consumer protection' and 'agricultural health measures' which are both directly mentioned in point (b). This amounts to 54 out of 686 cases. The guideline for the advisory procedure – point (c) – is so loose that a coding is not possible. Consequently all remaining cases are coded as not being subject to any guideline. This amounts to 530 out of 686 cases. All codings of acts into policy areas are based on the act's first mentioned directory code in the EU's Eur-Lex database.

10. As an alternative to the fixed effect approach of controlling for comitology guidelines in models 4 and 5 in Table 7.3, I have run a test of these models without the fixed effects, but with robust standard errors clustered at the level of policy areas (defined as in Table 7.1). I reach substantially

similar results. The conflict variable and the annex variable are still statistically significant, but the preparatory document variable just fails to reach statistical significance in this analysis. Results are available upon request. Since the fixed effect approach represents a more direct test of the comitology guidelines, I report this analysis in Table 7.3.

11. In the test in Table 7.5 the preparatory committee variable is not accompanied by a control for cases imposing countervailing or anti-dumping duties because these cases do not install any comitology committee and, hence, are not included in the dataset analysed in this table.
12. The correlation between the measure of institutional conflict and the two complexity measures, preparatory documents and preparatory committees, is lower in the subset of data analysed in Table 7.4 ($\gamma = 0.35$ and 0.43 , respectively).
13. Again, as an alternative to the fixed effect approach of controlling for comitology guidelines in model 4, in Table 7.5, I have run a test of this model without the fixed effects, but with robust standard errors clustered at the level of policy areas (defined as in Table 7.1). Again, I reach substantially similar results. The conflict variable, the preparatory committee variable and the annex variable are still statistically significant in this analysis. Results are available upon request. Since the fixed effect approach represents a more direct test of the comitology guidelines, I report this analysis in Table 7.5.

8 The Comitology System in Daily Practice

1. Now such a list is available at the Commission's online comitology register at <http://ec.europa.eu/transparency/regcomitology/index.cfm>.
2. Sannerstedt's data-collection process is described in Elgström et al. (2001, pp. 112–13).
3. Descriptive statistics on all these parameters can be found in Table 8.2.
4. As an alternative to the fixed effects approach, I have run the regressions in Table 8.9 without the fixed effects, but with robust standard errors clustered at the level of DGs. The analysis of the Commission as a mediator yields substantially identical results. The deliberative interaction style is still strongly related to the mediating role. However, the analysis of the Commission as a policy advocate reaches different results. The bargaining interaction style no longer obtains statistical significance.

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