

# A Matter of Context

Why Negotiating Mandates Given in the Swedish Riksdag's  
EU Committee Differ

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# Abstract

This thesis explores the mandates given to cabinet representatives in the Swedish Riksdag's EU committee before negotiations in the EU council of ministers. The mandate is the first step to secure accountability in the delegation between the Riksdag and the cabinet and it consists of the cabinet's proposed standpoint for each council agenda point and the committee discussions. The mandates are found to be more or less flexible and answers are sought to how and why this is. Three indicators are developed to decide what a flexible mandate is. These are tested on material from the EU committee and interviews. Using three hypotheses tested on two council configurations during two parliamentary years, the author detects that a strong national interest, the cabinet formation and if other member states have strong interests all have, given the context, some explanatory power.

*Key words:* Swedish Riksdag, EU committee, flexible mandates, delegation-accountability, EU negotiations

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# 1 Introduction

*The Government shall inform the Committee on EU affairs of matters which are to be decided by the Council of the European Union. The Government shall also consult the committee regarding the conduct of negotiations in the Council prior to decisions in the Council.*

The Riksdag act, Ch. 10, Art. 6.

Robert Putnam, in 1988 stated that international negotiations are characterised of a two-level game and by this he meant that they take place at two tables, both between negotiators and between the negotiator and the domestic constituent on ratification (Putnam 1988). Sweden has, since it joined the European Union in 1995 had a parliamentary advisory committee on European affairs<sup>1</sup> (national level, Putnam's Level II) which is supposed to receive information from and advice the cabinet and its ministers before European Union council of ministers negotiations (international level, Putnam's Level I) (Hegeland 2006: 49; Putnam 1988: 436). It can hence be regarded as providing a base or guarantee for later ratification, *ex ante* the negotiations. It provides the negotiator – most often individual ministers – with a negotiating mandate for the upcoming council meetings. However, scarcely examined although indicated in the past, these mandates can have different shapes and character in different parliamentary systems<sup>2</sup>. One certain characteristic of the mandates will be examined in this thesis; the level of flexibility.

The first chapter is devoted to an outline and the background of the study – its blueprint – including methodological aspects. The second chapter includes a derivation of hypotheses based on different theoretical backgrounds and the third chapter contain a discussion on and development of analytical tools for deciding what flexibility is. In the forth chapter, the hypotheses are tested on the empirical material. The last chapter is devoted to a discussion and conclusions.

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<sup>1</sup> In Swedish called EU-nämnden. To not cause any confusion the committee will in the following be named the EU committee or just the committee.

<sup>2</sup> The difference can consist of how different systems commit or bind their ministers to a mandate but it can also differ with respect to the room for manoeuvre. Some comments about this have focused on the desirability of different ways of mandating the ministers rather than the mandates *per se* (cf. Hayes-Renshaw and Wallace 2006: 230; Benz 2003: 89).

## 1.1 Aim and Research Questions

There is a vast amount of research conducted since the mid 1990s on how national parliaments deal internally with EU issues and in comparison how parliaments differ in this respect (Hegeland 2006: 17). The implications for democracy in the member states are regularly emphasised and this question is obviously relevant. EU is often blamed for lacking democracy and this must be seen in the light of a diminishing influence of the national parliaments who have been the traditional delegation link from citizens and to whom the accountability link has been clear (Katz 1999: 21-26; Norton 1996).

The literature on the Swedish parliament, the Riksdag, and how it internally deals with EU issues has grown. Hans Hegeland has contributed with several articles in anthologies (e.g. Hegeland and Mattson 2000; Hegeland 2001) and also written a dissertation (Hegeland 2006) on the matter. The framework he departs from in the dissertation is based on a dividing line between domestic and foreign policy based on different dimensions; information, participation, influence, accountability, consensus and timing. He examines the EU advisory committee, the standing committees and the chamber of the Riksdag. Hegeland's largest contribution to the study of negotiating mandates is the part on influence of the EU committee and its ability to shape the negotiating position. One part of the chapter on influence is devoted to negotiating tactics where the question on flexible mandates is raised. It is stated that in some cases, the ministers are explicitly pleading to get a flexible mandate based on different circumstances (Hegeland 2006: 188ff). However, Hegeland does not perform a systematic analysis of what factors are influencing the mandates but rather shows that discussions and differences exist. In addition to Hegeland, Andreas Maurer and Wolfgang Wessels have in a volume on national parliaments' adaptation to the EU included the parliamentary impact on the governments' room for manoeuvre in council negotiations as one indicator in the research design (2001a: 19). When analysed, the indicator seems to refer to the *ability* of national parliaments to bind their governments to a mandate rather than the content of the mandate and factors influencing it (Maurer and Wessels 2001b: 451ff).

The overall aim of the study is, based on this to shed light over a specific mandating process between a principal and an agent. It is more specifically a study of the mandating process and the negotiating mandates that the cabinet representatives are given in the Swedish EU committee before EU council of ministers meetings. It must also be regarded as an attempt to stress the importance and increase the understanding of mandates in this specific context. The aim relies on the assumption or point of departure that previous research has paved the way for; that the mandates agreed in the committee differs in flexibility. How this is expressed and what causes it will be the focus for this thesis. Derived from this, the research questions follows:

- 1) In what ways do the mandates given in the EU committee in the Swedish Riksdag differ along the dimension of flexibility?

## 2) What explanations can be found for the differences in flexibility?

The first research question will be studied through an analysis of material from the EU committee and interviews. It will also be inspired by previous research and contain a discussion on what flexibility means in this respect. This discussion will be presented in the third chapter. To seek answers to the second question, a number of hypotheses will be developed based on both empirical and theoretical background. These hypotheses will be further presented in the second chapter and in the fourth chapter tested on the material.

## 1.2 Multi-level Character of the Two-level Game

As indicated, the overall framing of the topic is provided by the characterisation of a two-level game. This framework is not uncomplicated since Putnam's work has been revised and apart from traditional forms of international negotiations – bilateral or multilateral – the EU is most accurately described as multilevel (Maurer and Wessels 2001b: 427). This is however a description of governance in the EU which might be interesting when studying influence and democracy or other sorts of connections and distribution of competences between different levels. In that respect, one distinct character of the multilevel system is the autonomy from one level to another. Much more than in federal state systems – for example the German – are the levels decoupled which also mean that they can play an autonomous role with less accountability in absence of a unifying factor (Jachtenfuchs and Kohler-Koch 2005: 103). This also leaves the individual negotiator, as the central strategic actor in negotiations, with some interpretative space of the instruction from the principal (Moravcsik 1993: 16), which is further strengthened as the accountability link between the levels might be weak. The accountability link between the Riksdag and the cabinet must be regarded as somewhat stronger than that since it is located to a large extent within the national system (Hegeland 2006: 244).

Turning to Robert Putnam's two-level game theory it uses Level II for the domestic negotiations and Level I for the international negotiations. The levels are represented by the EU committee in the Swedish Riksdag and the EU council of ministers respectively. The cabinet and its ministers are the agent acting as the link between the two levels. Arguments can be put forth that this will provide an incomplete and simplified image of the two levels since it ignores preparatory and informal stages but also the bureaucracy in the decision-making processes (cf. Hayes-Renshaw and Wallace 2006: 28f; Larue 2006: 12ff). The focus in this thesis is in that sense limited to the actual mandate that is discussed in the EU committee. The limitation in this respect is also a reflection of the purpose to make an analytically stylized and comprehensive model to depart from.

One important and in this thesis perhaps the most relevant part of the two-level game perspective is the focus on ratification which is the theoretical link between the levels. To be secured at the domestic level – that with a certain

negotiating position it is possible to expect that an international agreement will be ratified domestically – is a necessary condition not to lose political credibility or mutual trust among negotiators (Putnam 1988: 435f; Benz 2003: 89). Another likewise crucial concept is that of win-sets defined as “the set of all possible Level I agreements that would ‘win’ – that is, gain the necessary majority among the constituents”<sup>3</sup> (Putnam 1988: 437). Together, they tie the two levels and points to the interaction of them in a way that mirrors the relation of the EU committee and the council.

### 1.3 Democratic Delegation and Accountability

Representative democracy, which is the most prevalent form of democracy in Europe of today inherently contain delegation of power to politicians. Delegation of power is a natural part of human life and can be traced to several different kinds of activities. In political life it consists of several steps and levels forming a chain of delegation from the citizens to politicians, experts and bureaucrats, who prepare, make and implement decisions (Müller et al. 2006: 3f).

In Sweden, this delegation chain has traditionally been rather straightforward where citizens have elected representatives to the parliament who in turn have appointed a cabinet. In all these directions where power is delegated there have also been instruments for accountability. The citizens are seen as the principal who appoint an agent – the Riksdag – who in turn, acting as a principal itself appoints its agent – the cabinet. The cabinet is dependent of the support from the Riksdag and the Riksdag is dependent on the support of the electorate. In the cabinet, ministers are internally delegated power from the Prime minister<sup>4</sup> (Hegeland and Mattson 2000). The delegation chain continues in several additional steps and directions, one of those being to the EU. Hans Hegeland and Ingvar Mattson emphasises that by only exercising control, the Riksdag might be left with very little influence over important EU matters (2000: 90) and thus lose some ability to hold the cabinet accountable. This is, in general one of the dilemmas with protecting sovereignty and simultaneously preserving and gaining international influence; that the traditional channels of democratic accountability become less usable (Jerneck 1996: 151f). National parliaments do not have any

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<sup>3</sup> This argument has been further developed by Robert Pahre who argues that the win-set should be regarded as Pareto-optimal whereas what he labels ‘acceptance set’ leaves the actor no worse off than a status quo (1997: 150). The latter version rather corresponds to what Putnam refers to as the win-set since he do not do any reference to the win-set as based on relative gains.

<sup>4</sup> Although the Prime minister is appointing the cabinet ministers it cannot be assumed that they are acting solely in the interest of the Prime minister but rather in the interest of the whole cabinet. There are deviating arguments about who should be regarded as the principal in this situation which is further discussed by Bergman et al. (2006: 178). In the situation described here, the minister must be regarded as both accountable to the cabinet and to the Riksdag since the Riksdag and especially the EU committee has the possibility of evaluating the ministers’ action after the EU council negotiations (cf. Hegeland 2006: 225-238).



formal way of controlling the EU and traditionally the Riksdag have had limited influence over foreign policy (Blomgren 2005: 80f).

Stating that the delegation chain is continuous raises the question whether the minister – on whom the focus lays here – solely is another link in this chain. The minister's role is two-fold, either as participant in a negotiation or as principal, delegating decision-making authority to bureaucrats and civil servants. In the first case, the minister is accountable to the Riksdag but in the second case, the situation is more blurred. This is based on a general observation that with the multilevel character of the EU, citizens have had difficulties in holding participants accountable. Especially since the delegation chain has become longer and the decision-making power has been transferred through several steps and also to some extent been informalised (Benz 2003: 103). This problem lies in the nature of the organisation and which is perhaps mostly a problem for national parliaments having difficulties in acting as the link between the EU and the public (Benz 2003: 105). It is assumed that agents at the end of a delegation chain are less accountable to its ultimate principal (Lake 2007: 228) – the citizens<sup>5</sup> – and that the role of securing the accountability has been difficult to perform (Lake 2007: 220). The focus in this thesis is on the first of these tasks, ministers as negotiators and it must therefore be assumed that instruments of accountability exist.

The distinction between process and outcome accountability must also be illuminated, with the former representing a relation where the principal can influence the agent (control) whereas the latter variant is used to describe a situation where the agent is acting in the principal's interest (Lupia 2000: 18f). It can accordingly be regarded as accountability *ex ante* and *ex post* and it raises questions of desirability of one or the other type of accountability. It can be argued that if the Riksdag is too involved in steering the minister instead of holding him/her accountable, they cannot blame the minister for a bad outcome without blaming themselves; the roles of the principal and agent become blurred (Hegeland and Mattson 2000: 90). Both types of accountability can be detected in the Swedish system. A lot of the issues return to the EU committee on several occasions during the decision-making process to be reported and to get a renewed mandate to act upon (interview Granbom Ellison 2009; interview Hamilton 2009). On a number of occasions have the minister during negotiations conferred to the EU committee on an unexpected turn in negotiations which the mandate has not covered (Hegeland 2006: 188). This possibility is so far used mostly during the European council meetings where it on occasions are difficult to be too detailed about the negotiation tactic in advance and where it hence has been necessary to get a renewed mandate to act on (interview Danielsson 2009). It must however be

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<sup>5</sup> Whether citizens should be regarded as the ultimate principal to whom accountability is to be preserved can be questioned. In fact, in the relations described here, the agent is rather accountable to the one that has entrusted him with authority, which is not necessarily the one that is affected. It is also the Riksdag who regularly evaluate the cabinet's and minister's performance and not primarily the citizens (cf. Grant and Keohane 2005: 31).

maintained that under ordinary circumstances, the Riksdag's ability to influence the negotiator ends at the national border.

The abovementioned relations are ultimately matters of democracy where it must be possible to hold decision-makers accountable. Where this link is missing, a democratic deficit might be perceived. One way to address the democratic deficit has been to increase the role of the European parliament as the direct link to the citizens. It is debatable whether it has been successful and the question is highly political (Warleigh 2003: 88ff). In the opposite camp, and as a sign of the issue's agenda presence, the Czech president Václav Klaus has recently – in a speech directed to the European parliament – suggested that national parliaments would be better to address the democratic deficit (Klaus 2009-02-19). Suggestions of this come also from within academia (cf. Benz 2003:88). On EU affairs, ratification of the agreements at the EU level is secured in the EU committees in national parliaments but the level of influence, formal and informal is varying (Auel 2007: 490f). In the Riksdag, a mandate is given to the cabinet representatives to negotiate after and this is one of the ways to secure accountability and ratification. It should moreover be noticed that although accountability is only possible to claim when an action is taken (Dunn 1999: 340), the first step must be to have an instruction.

### 1.3.1 Securing the Accountability of the Agent Through Mandating

Whereas mandating occasionally appears to refer to a strict instruction for the agents acting upon it, less definite interpretations are feasible. Wolfgang C. Müller et al. uses mandates to describe on what base the electorate delegate authority to politicians or parties during general elections (2006: 19) whereas Tapio Raunio uses mandating with respect to EU committees possessing ability to issue voting instructions before ministers are taking part in EU council of ministers negotiations (2007: 163ff; on Sweden, see Lindgren 2000: 205). These two usages have in common that they refer to some kind of instruction from a principal to an agent (cf. Bergman and Blomgren 2005: 15). Müller et al. is not explicitly referring to the latter variant as a mandate but rather to it as a conditional authorisation to act in the principal's name (2006: 21). This must however be seen as converging with the above described instruction giving. There are other usages for the word mandate as well that refer to other phenomena. The differences might be linguistic or due to variations between disciplines but are still clearly related to delegation from principal to agent (cf. Brengsbo 1997: 158).

A mandate is hence referring to a set of conditions or a space within which boundaries an agent should act, in some sense a parallel to Putnam's term the win-set. Whereas the win-set refers to the outcome of a negotiation, the mandate also refers to the action that the negotiator should take during the negotiations. The distinction is mostly important in EU negotiations where states do not have veto power. If there is a possibility to veto, no state would accept an agreement below the win-set. As mentioned, the statesman has a crucial role in the negotiations which implicates that his action or *ability* to act might be worth studying. The

statesman's interest to act in a certain way is thus interesting and at a minimum level – regardless of the theoretical perception on actors' influence and although the accountability link might be weak – it must be assumed that s/he has an interest to secure a future position in the government and therefore act in a way that do not clearly deviate from the instruction given (Moravcsik 1993: 16). It is however not only the minister that has an interesting position as an actor. The role of the EU committee and in general the role of the Riksdag as the principal is not as homogenised as have been assumed this far. Every individual Member of Parliament has been elected for various reasons, they represent different interests and it is unfair to disregard their roles as actors. However, what is referred to here is the mandating function which has to be seen as the collective outcome of the committee meetings and thus as *one* mandate.

Based on this, mandating should not be reserved to the sole usage of issuing binding instructions for the cabinet representatives but rather as well suited for labelling any situation where a principal is giving an instruction to an agent. This can be implicit, as in the delegation that any parliamentarism is based on and it can be more explicit and more issue specific when required. The latter variant is more typical for the EU committee. Together, this motivates the label of mandate giving in the Swedish EU committee, a process that will be further elaborated on in the following.

## 1.4 Level II: Dealing with EU Issues in the Swedish Riksdag

The EU committee is the last halt for an issue in the Riksdag before it is negotiated in the council of ministers. The cabinet is, as indicated by the introductory law excerpt obliged to inform and confer to the EU committee *ex ante* council negotiations and this usually takes place on Fridays for the coming week's council meetings (Johansson 2003: 377). It is, as mentioned, in the EU committee where the cabinet are supposed to secure ratification of a potential agreement in the council. Although Putnam emphasises that ratification not necessarily refers to a formal parliamentary ratification (1988: 436), it is in this sense it is used in this thesis. The committee discusses the issues at stake and at the end of the meeting most often consent to the negotiating position that the cabinet is proposing (Hegeland 2006: 182). The committee is at that stage unlikely to substantially change or disapprove the position proposed by the cabinet. This is not to say that changes in the positions cannot be done and on occasions a majority in the committee has opposed a cabinet position (Hegeland 2006: 208f). The mere fact that the cabinet needs approval by the committee may nevertheless lead them to consider the anticipated opinions of other parties *before* the EU committee meetings (Hegeland and Mattson 2000: 88).

The cabinet is coordinating EU policies in the ministries and the parliament is only involved at a late stage of the process. Every commission proposal is sent to

the cabinet who in turn forward a ‘fact memorandum’ (faktapromemoria) on issues of ‘particular importance’ to one of the standing committees under which the issue falls and to the EU committee in the Riksdag. This is an early document containing the proposal, a judgment on the consequences for Swedish legislation, preliminary financial costs and preliminary Swedish position (Blomgren 2005: 82ff). The cabinet is also, in direct relation to the EU committee meetings forwarding a ‘commented agenda’ (kommenterad dagordning) which also expresses the Swedish position on the more specific issues to be dealt with during the following week in the EU council. When the cabinet then confers to the EU committee its position before negotiations in the council of ministers, it is the commented agenda that is the main focus of the discussion (interview Kinberg Batra 2009). Dependent of which level of EU decision-making the issue is at, it can then return for another round of deliberations in the Riksdag. Whereas in domestic cases, the standing committees should come up with a ‘written report’ (betänkande) on proposals from the cabinet, on EU issues it just has an obligation to follow the issues and to keep informed (Blomgren 2005: 82ff). This order has since spring 2007 changed with the reforming of the Riksdag act aiming to increase the involvement of the standing committees early on in the EU decision-making process (EU-nämndens verksamhet riksmötet 2006/07: 1). The reform distinguished between the EU committee consultations which are supposed to be focused on the negotiating mandates and the standing committee consultations that should focus on the factual matter. The effects of the reform are however still not completely clear and some of the standing committees have not succeeded to engage early in the process (interview Olsson 2009; interview Holm 2009). There is still thus a major difference between domestic and EU issues since in most cases the Riksdag just enters the process at the very latest stage – in the EU committee. An attempt to engage or encourage the national parliaments early in the decision-making process is also done in the Lisbon treaty, should it enter into force (Louis 2008).

The committee should have the same composition as the Riksdag and all parties are proportionally represented in it (Hegeland 2006: 209). The meetings are closed for the public but after around two weeks it publishes a stenographic record from the meeting on their website (Blomgren 2005: 92f). The discussions are usually attended by a minister or state secretary who informs about the cabinet’s position and then answers questions from the committee members (Hegeland and Mattson 2000: 87f). The chairman ends the discussion by asking if the cabinet has support for its position and the committee members can, if they oppose the proposed position, mark that they do not give its support (Hegeland 2006: 251). This process got more formal during spring 2007 and it is now noted in the protocol if a member of the committee does not share the cabinet’s proposed standpoint (interview Olsson 2009).

It is easy to trivialise the function and influence of the EU committee because of its late entrance and since the cabinet and its ministers are not bound by the committee’s recommendations (Johansson 2003: 377; Mazey 2001: 263). But whether the ministers should be seen as bound by the mandate given in the committee is not completely clear. Torbjörn Bergman emphasised in the early

days of Swedish EU membership that this will be a matter to deal with if such situation will appear in the future (1997: 49) and Arthur Benz has at a later stage stressed that the Swedish parliament can issue binding *propositions* to the government (2003: 89). However, the parliamentary ‘Committee on constitutional affairs’ (Konstitutionsutskottet<sup>6</sup>) has stated that the government should follow recommendations by the committee but it should also understand that the government must have freedom to change its position during negotiations (Blomgren 2005: 93). Furthermore, Hans Hegeland has stated that the mandates are “politically, but not legally, binding” and is further stressing that good reasons must be provided, should the minister deviate from the mandate given (2001:385).

This proves that the committee is influential since the cabinet has been delegated its power from the Riksdag and relies on its support. This means that it is accountable to the same and implies that the recommendations are likely to be taken into consideration. Torbjörn Bergman et al. has estimated the committee’s influence on cabinet ministers in Sweden as being ‘Moderate’ which by comparison places it in the upper half of EU15 (2006: 175). To be held accountable in this relation means that a minister can be questioned by the Committee on constitutional affairs and ultimately be a target of a vote of no confidence (Johansson 2003: 377). Since Sweden has usually relied on minority governments<sup>7</sup>, the likelihood is high that they are careful not being too ignorant of the committee’s or the Riksdag’s opinions.

What is actually discussed in the EU committee is the standpoint that the cabinet is proposing, primarily in the commented agendas. The discussion in the committee can be seen as the mandating procedure and the actual negotiating mandate but it departs from the cabinet’s standpoint (interview Kinberg Batra 2009). This is important since the cabinet position can, during the committee meeting be slightly changed if there is no agreement between the cabinet and the committee (Hegeland 2006: 208). The standpoints and what the committee is about to approve is not always very specific on every detail but is rather expressing a direction towards which the cabinet representative should try to steer the negotiations (Hegeland 2006: 188). This is especially true for issues on the committee agenda that are at early stages of EU decision-making, what is in the committee referred to as information or discussion points (Hegeland 2006: 182f) as opposed to decision points (interview Kinberg Batra 2009). What has to also be

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<sup>6</sup> The committee on constitutional affairs has as one of its tasks to scrutinize the cabinet and the ministers on their performance and handling of its assigned business. It has the possibility of questioning single ministers and produces a written report on the cabinet and its ministers once or twice a year (Hegeland and Mattson 2000: 90). In doing that it also has a role of assuring the accountability to the Riksdag.

<sup>7</sup> Bergman has typed the situation ‘negative parliamentarism’, meaning that the government usually have not had active support from a majority in the Riksdag but rather that it is just tolerated (Bergman 2006: 601f). The only exception from the minority government pattern after the EU accession is in office at present and contains a majority coalition government consisting of four center-right parties (Pettersson 2007: 144f).

mentioned is that the issues discussed in the committee are primarily B-points<sup>8</sup>. Usually the cabinet will provide the committee with a list of A-points which will be formally accepted at the meeting but which are rarely discussed (Hegeland 2006: 72f). This routine has also changed somewhat since January 1<sup>st</sup>, 2009 and it is now handled in a written procedure instead, running in parallel with the ordinary committee meetings (interview Olsson 2009).

To refer to a mandate requires as mentioned an instruction to act in a certain way. Since the points on the council agenda have different character not all lead to an instruction or a mandate. This is mostly visible for what are called information points which can result in that the cabinet is only aiming at receive information but where no standpoint is taken. The other two, although loosely constructed are discussion points and decision points. These should not be judged solely on their names which imply that the instruction to act does not strictly follow this division and they are in many ways overlapping each other (interview Olsson 2009). It can nevertheless be maintained that they represent different stages of the decision-making process and in general they show different levels of concreteness (interview Holm 2009; interview Gustafsson B. 2009).

## 1.5 Methodology

The discussion on methods will contain two parts to make it contribute to the research design. Firstly, the motives behind the chosen methods and how they are consistent with the study outline and secondly, how the methods will be used practically and what implication it has for the study.

Regarding what influences the flexibility of the mandates given in the EU committee, it has already been stated that hypotheses will be used. This method is usually departing from theoretical understandings of a phenomenon that is developed into a testable hypothesis about the reality and it is thus deductive. A distinction that has to be made here is between a theoretical perspective and a theory. While the former is more general and lies closer to a point of departure or an assumption about larger trends, the latter can be based on a more concrete although still general understanding of a narrower phenomenon. Out of these two variants, a more concrete hypothesis can be formulated that is limited in time and/or space (Esaiasson et al. 2007:39ff). The foundation of the hypotheses used in this thesis will be derived from both kinds of theories independently but they will also be related to each other and moving up and down the ladder of concreteness. The mandates' level of flexibility is the dependent variable which is supposed to be explained by the independent variables, expressed in the hypotheses (Esaiasson et al. 2007: 38f).

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<sup>8</sup> B-points are those issues that have not been agreeable at lower levels of the EU hierarchy and therefore are supposed to be "trashed out by ministers". A-points on the contrary are already agreed and only needs final approval in the council (Hayes-Renshaw and Wallace 2006: 52f).

The benefit of using deductive method is that it is likely to produce a relevant result since it is based on previous findings and hence on the cumulative nature of science (Hellevik 1991: 75). One risk is that theories or findings are used in a too general sense, that because a hypothesis has not been falsified it can be taken almost as a truth and that the theories lying behind is generalised beyond recognition (Ryan 1970: 68f). It must in that wake be contrasted by this thesis usage of multiple hypotheses based on empirical observations founded in different theoretical perspectives as a way to avoid using theory in a too dogmatic fashion. Moreover, the theories used for the hypotheses are modified to be testable and combined with previous observations are they perhaps in some regards slightly loose and hence important to examine critically. Testing theories against each other on the same case is *aiming* at falsify them, which in Karl Popper's terms is characterizing the scientific method as opposed to the metaphysical ditto (1972: 33-59). This perception is however not uncontested and rightly so. Using the most orthodox Popperian conception of it stating that one single falsification might be enough to falsify a complete theory cannot be taken as a good way of conducting research. This should instead be regarded as a window of opportunity to modify the theory to make it more precise by support from previous but also new findings (King et al. 1994: 103). In defence of the usage of this approach in this thesis, it is argued that considering the hypotheses' nature and the abovementioned, aiming at falsification must be the most effective way to conduct the research.

There is always a risk when deciding what independent variables to use that these will only be able to explain the variation in the dependent variable spuriously – that the relation between the variables is not causal. This refers to a situation when the covariance of two variables is only illusory, that it is actually another underlying variable that is causing the dependent variable to change (Hellevik 1991: 64f). Therefore, the logic behind the hypotheses, the expected causal mechanisms, has to be elaborated on (Esaiasson et al. 2007: 73). This is also related to the question of validity, that there is a correspondence between the theory and the hypothesis and hence that the hypothesis is relevant and actually in line with the theory (Esaiasson et al. 2007: 63-72). These aspects have to be carefully considered when deriving the hypotheses in chapter two but also when drawing conclusions. One further way to avoid situations where the relations can be questioned is to find alternative channels of information that can confirm or falsify the assumptions lying behind. In this thesis, interviews will be used as an alternative method and source of information partly for this concern. The usage of interviews is also motivated by the desire to avoid being too dependent on what is actually voiced in the EU committee and should thus be seen as complementary or additional to the EU committee's official material. It has been emphasised that "governments cannot be forced to disclose every aspect of their negotiating position, as this would obviously weaken their position in the Council" (Auel 2007: 498) and this is further explained by Hans Hegeland who state that it is rather a direction that is delivered and it cannot be too detailed so that it undermines the state of negotiations (2006: 72). One effect of this is that the material has to be approached with a critical attitude and be evaluated accordingly. Interviews are also a way to directly pose questions to the material

and shape it after the research design. This is a way to avoid being forced to adjust it to the material already available. Whether any answers to the posed questions will be provided is however never guaranteed.

A qualitative textual analysis (qualitative content analysis) will be used as the tool to analyse the gathered material both from the EU committee and the interviewees. This will be done in order to sort out relevant sections from the texts and thus also reduce them in what Uwe Flick (2006: 313f) refers to as a summarizing content analysis. It is also a way to find the underlying meaning of the texts where it is important to carefully reflect on the interest of the producer of the text – the author or interviewee (Hellevik 1991: 153). Content analyses are most often described to as quantitative where the presence of certain words or expressions is counted (Bergström and Boréus 2000: 19f). A qualitative approach is however more useful when it comes to get the whole argument out of a text and where it is possible to extract passages in the text and not solitary words (Esaiasson et al. 2007: 237). When looking at specific aspects of a text or indications of specific phenomena, as is done in this thesis, the qualitative method is preferable. Any textual analysis has to incorporate and depart from some kind of structure that eliminates the risk of the analysis to become too arbitrary. The reliability has to be secured through a careful consideration of how to measure given phenomena and to secure the intersubjectivity<sup>9</sup> of the analysis and this is especially true for exclusively qualitative studies (Djurfeldt et al. 2003: 109).

The following section will provide a discussion on the practical usage of the interview method and also a brief presentation and motivation for the interviewees. In chapter two – after the hypotheses are derived – a section on the sampling process for the issues studied and the material selection is located.

### 1.5.1 Interviews and Interviewees

The information gathered in the interviews is based on the subjective experience that the interviewees have from their role as practitioners in relation to the EU-committee. This includes their conscious motive (which is the only motive possible to express, cf. Rosén Sundström 2009: 36) for acting in certain ways in the committee or elsewhere.

The practical reasons for conducting interviews has already been mentioned but more precisely, the interviewees are regarded as informants, as eye witnesses that contribute to sketch a complete and “real” image of the phenomenon under study (Esaiasson et al. 2007: 257f). They have all been involved in the processes of mandating and contributes to the research by explaining how they think about it, whether the mandates are consciously given more or less flexibility and what factors that are considered when deciding what the mandate should be like. They

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<sup>9</sup> Intersubjectivity refers somewhat simplified to the ability to reconstruct a study. Two independent researchers should, given that the same research design is used land at the same result which requires that the researcher is clear with methodological choices (Lundquist 1993: 52ff).



have also been valuable in that they have increased the understanding of how the committee is functioning and its working methods. These factors furthermore motivate the semi-structured character of the interviews since it would not have been fruitful to ask all the interviewees the exact same questions due to their somewhat different relations to the political setting of the committee. It is probably better to let the interviews evolve and develop during the execution although within an overall framing (Esaïasson et al. 2007: 257ff). This must be seen as a compromise between enhancing intersubjectivity and leaving the interviewees some room to develop thoughts and nuance the answers. The semi-structured approach seems in this respect to be well-suited.

When it comes to the execution of the interviews, several aspects have been important to bear in mind. The structure of the interview and the construction of the questions are important to carefully consider when designing an interview. The structure has been developed to not create any contextual effects, which are to put the questions in an order that undesirably affect the respondent's answers to following questions. It has furthermore been important to not use ambiguous concepts that can be misinterpreted by the interviewee. It has also been necessary to balance the questions so that they do not favour any particular answer (Hellevik 1991: 125ff). All the interviews have been *tête-à-tête*, except for the one conducted with the head of the EU-committee secretariat, Jan Olsson which was done on telephone. All the interviewees accepted that an audio recorder was used during the interview. This was done in order to assure the possibility to go back to the material after the interview was finished. This has facilitated the execution of the analysis and the ability to double check statements.

The interviewees<sup>10</sup> were chosen for various reasons but all of them have had some connection to the EU committee during several years or are possessing key positions. All of the interviewed parliamentarians are presently members of the committee and has been for a minimum of three years (Anna Kinberg Batra) and a maximum of eleven years (Christina Axelsson and Holger Gustafsson) which is almost its entire existence. To avoid bias due to party belonging, the intention was to as far as possible get a sample spread on the complete political spectrum, representing parties from the right, the left and the centre. It was also important to include at least one interviewee from an EU sceptical party in the Riksdag, either the Left party (Vänsterpartiet) or the Green party (Miljöpartiet de gröna)<sup>11</sup>. The importance is further illustrated by that these parties were cooperating with and supporting the Social democrats that were in office before 2006. This cooperation did not cover EU issues (Hegeland 2006: 209) which also implies that they have to some extent, on EU affairs, been in opposition since the EU accession.

The interviewees from the committee are spread as follows; two from the Moderate party (Moderata samlingspartiet), one from the Christian democrats

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<sup>10</sup> For a full list of interviewees and their EU-related positions, see the reference list.

<sup>11</sup> Although the Green party in October 2008 abandoned the demand that Sweden should leave the EU, it remains one of the EU skeptical parties in the Riksdag (Eriksson and Wetterstrand 2008-10-06).

(Kristdemokraterna), one from the Liberal people's party (Folkpartiet liberalerna), one from the Green party (Miljöpartiet de gröna) and two from the Social democratic party (Socialdemokratiska arbetarpartiet). Apparently, not all parties in the Riksdag are represented by an interviewee which might be a flaw when considering their representability for all the actors involved. On the other hand, the interviews have not primarily focused on the normative side of the mandates but rather of how the mandating is perceived subjectively which is not necessarily affected by party belonging but more on the perception of individual members of the committee. To also secure an account from the cabinet, Lars Danielsson, the former state secretary for EU and international affairs and former state secretary to the Prime minister has been interviewed. His knowledge and experience from working with EU issues in the cabinet has provided insights to the link between the cabinet and the EU committee and the link between the cabinet and the EU council of ministers. This is as shown, of severe importance for the ability to evaluate how the mandates are designed. It has in previous research been assumed that the committee has less ability to influence state secretaries than ministers appearing in front of it (Hegeland 2006: 171) which presumably lead to less conflict. For that reason, it would perhaps have been preferable to also interview a former minister. This has not been possible and it is assumed that the interview with Lars Danielsson will sufficiently cover that perspective. One interview has also been conducted with the head of the EU-committee secretariat, Jan Olsson to also secure an account from that perspective.

One severely important aspect when interviewees are used as informants is to scrutinize them with a source critical perspective<sup>12</sup> (Esaïasson et al 2007: 291). One of the aspects of this is the closeness to the event and it is assumed that the closer to an event the narrative is delivered diminishes the risk of manufacturing or beautifying the event and the narrative hence becomes more credible. This must be seen as remedied by that the interviews have not referred to specific issues or deals but have been of more general character. Within source criticism there are other equally important issues to discuss and that is the authenticity, independency and tendency criteria. The authenticity criterion cannot be seen as problematic since the interviews stand for themselves and there is no doubt that the interviewees are authentic. The independency criterion stipulates that it is desirable that narratives can be supported by more than one person, that the narrative is expressed by the person that has the experience (that it is a primary source) and that no external influence is exercised on the narrator. The last aspect is connected to the tendency criterion which focuses on the willingness of the narrator to advocate an opinion rather than accurately depict a certain event or situation. Since the interviewees' opinions are subjective they are difficult to support by other sources. However, the interviews will be compared and general tendencies can be supported by corresponding experiences or contradicted if they are inconsistent. Furthermore, the interviews rely *solely* on the experience by the

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<sup>12</sup> This term is literally translated from the Swedish word "källkritik" and in the lack of any better translation this will be used throughout the thesis.

interviewees which make the material a primary source. The last independency aspect and the tendency criterion are more difficult to remedy and it might especially be true when politicians are interviewed. Since several interviews will be conducted and since the questions will not be of very sensitive character, there is no need to exaggerate this aspect even if it is important to bear in mind (Esaiasson et al. 2007: 313-326).

## 2 Hypotheses Deriving

The hypotheses used in this thesis have the purpose to explain why mandates differ in flexibility. It should not be regarded as an exhaustive list of influencers but rather those with the strongest theoretical and logical foundations based on previous research. The hypotheses have somewhat different shapes with the first one focused on an isolated variable that is referring to the issue's character, the second hypothesis is based on the domestic political situation and the third is focused on the argumentation for a mandate. It is also important to emphasise that none of the hypotheses take into account the normative part of being more or less flexible. They are all departing from how the mandates' flexibility is intuitively and rationally most likely to be affected given the situation provided. The assumptions lying behind this and the hypotheses per se are not to be regarded as rock solid but rather open to discussions and modifications in accordance with the empirical findings.

The bases for the hypotheses will be provided in the following and the section ends with a discussion of how these are applied to and have governed the material selection.

### 2.1 Issue Specific (Tradition) Hypothesis

What is referred to as the issue specific hypothesis is based on an observation done by several scholars that a set of issues or issue areas can be identified as core national interests. The most frequently mentioned of these issue areas for Sweden is the environment which must be regarded as fairly wide since it covers a complete council configuration and not just a part of it. Another often voiced interest that is mentioned in the literature is the issue of openness and transparency which is one of the values of the Swedish model which is sought to be transferred to the EU (Bal 2004: 137). In addition to these, consumer policy, employment and social policies as well as enlargement have been advocated by the Swedish government (Mazey 2001: 260). Environment policies are however most frequently mentioned in the literature and Sweden appears to have a reputation of particularly prioritising those issues (cf. Hayes-Renshaw and Wallace 2006: 230). This is also based on the external view of Sweden in the council and in the EU as being a forerunner in the environmental field (Kronsell 2002: 195f).

It can be assumed that if the national interest is strong and hence the opinions of most political parties are strong, they will attempt to influence the cabinet more than if the interest is weak. This in turn means that a lot of interests will be fused

together into a mandate that presumably is of less flexible character. A traditionally strong interest might also lead to more influence or *referent power* if a state has built up a reputation and credibility in a field (Broman 2008: 95). This can reduce the risk of the less flexible mandate to be a liability and rather become an asset. Hence:

H<sub>1</sub>: The negotiating mandate will be less flexible for issues dealt with in the Environment council than for other issues, *ceteris paribus*.

To fully understand what it is about the environment issues that may lead to a less flexible mandate it is vital to examine the Swedish relation to them. Sweden is perceived as a forerunner in environmental policies and also to have legislation that are progressive in comparison to many EU members. This is stemming from a strong tradition and long term environmental consciousness that with the EU accession became a vital, and from the EU: s perspective welcome interest to defend (Kronsell 2002: 193ff). The assumption is therefore that the already strong legislation created a willingness to not compromise and be imposed weaker environmental standard. This is supposedly also something that the Riksdag has been strongly advocating.

## 2.2 Cabinet Formation Hypothesis

The second hypothesis that will be accounted for here is based on the recognition that the cabinet's support in the Riksdag might affect whether the mandate given is left more or less open. As have been mentioned, the cabinet has during the whole period between Swedish EU accession and up to 2006 been characterized by a negative parliamentarism meaning that the cabinet has been in minority in the Riksdag. One indication of the importance of the parliamentary setting is shown in the Danish case and its strong EU-committee. The often cited strong mandating power in the Danish Folketing has often been traced to the presence of minority governments (cf. Maurer and Wessels 2001b: 453; Pahre 1997: 159f). Before 2006, the Social democrats were in governing minority with support from the Left party and the Green party, but as mentioned, this support did not cover EU affairs. It should therefore be assumed that the opposition parties, whose support the Social democrats logically had to rely on, had a good negotiating position in the EU committee to influence the cabinet and were thus more eager to constrain the negotiating mandate.

H<sub>2</sub>: The negotiating mandate will be less flexible if the cabinet is in minority in the Riksdag.

Markus Jachtenfuchs and Beate Kohler-Koch have indicated that even a governing majority in a national parliament would be hesitant to accept too much flexibility or autonomy for the cabinet representatives to negotiate in the EU

(2005: 104). It is, based on that fair to assume that a governing *minority* will be given an even less flexible mandate.

## 2.3 Two-level Game Hypothesis

The third and last hypothesis is stemming from the theory already mentioned in the beginning of the thesis, the two-level game theory. According to Andrew Moravcsik the two levels must be simultaneously studied since a negotiator can employ double-edged strategies to exploit the two levels and one level cannot be understood without the other (Moravcsik 1993: 33). As only one of the levels is studied here, only one direction of this two-way relationship will be covered. If Moravcsik's argument that the statesmen "seek to manipulate domestic and international politics simultaneously" (1993: 15) would be correct and considering the cabinets information advantage towards the Riksdag, implies that the cabinet would try to use the perceived situation on Level I to get a favourable negotiating mandate. In this respect this must be assumed to be as open as possible. The argument is accordingly based on the multi-level understanding that the levels are, to at least some extent decoupled from each other so that the actors within them have some ability to act manipulative. This is only possible if the state is not completely in charge of the process (Hooghe and Marks 2001: 1ff). Since manipulation is assumed to be scarcely used in the EU and since it would naturally be difficult to trace, the closely related and less hidden concept of persuasion is preferably used (Broman 2008: 95). Persuasion should be seen in relation to the two-level game logic to refer to an argument that strengthens the cabinet's proposed standpoint. By analyzing whether other member states' preferences in any given issue are used as an argument in the EU committee for a presumably more flexible mandate, the two-level game hypothesis will be evaluated.

H<sub>3</sub>: The negotiating mandate is more flexible on issues where it is argued that other member states' preferences are strong.

## 2.4 Hypotheses Usage and Sampling of Material

When deciding on how to delimit the scope of the study, several aspects have led to the final selection of cases and material. Firstly, it is obvious to use complete council configurations to focus on since that is how the issues appear in front of the EU committee. Secondly, the sample is strategic and departs from the variable thinking, that the dependent variable is assumed to change in correspondence with the independent variable. The sampled issues must spread along the independent (explanatory) variable's possible range to make a meaningful comparison between

the issues and to be able to draw conclusions based on it. At the same time, it should isolate other variables that can potentially influence the dependent variable so that the sampled cases are as similar as possible, except for the explanatory variable. This is following a well established practice for comparisons when testing theories; the most similar cases design (Esaiasson et al. 2007: 112ff). Thirdly, the material chosen from the committee mainly consists of commented agendas and stenographic records from the committee meetings and the council configurations chosen. Where it has been necessary, the memoranda for the specific points on the council agenda and the fact memoranda from the cabinet have supplemented the commented agendas<sup>13</sup>. In addition, transcripts from the interviews conducted will be used.

As mentioned, the first hypothesis has already a focus on the Environment council. This needed to be contrasted with another council configuration to basically have something to measure the more or less flexible mandates against. To make the comparison meaningful, the most similar council configuration has been chosen; the employment, social policy, health and consumer affairs council (EPSCO). EPSCO is gathered equally often and they are using the same decision-making procedures. Both are relating to improvement or supplement of the single market with positive integration in fields that is not naturally covered by the single market. In that respect they deal with issues to correct market failures (Hix 2005: 251-264). One problem is that they are also similar in that they can both be considered as traditionally strong Swedish interests. Among the policy areas that were mentioned above, stronger employment and social policies and consumer policies are all covered in the EPSCO. However, the argument put forth here is that none of these issues are equally strong as the environment which implies that there might be a perceivable difference. It also implies that if the hypothesis will hold with that rather tough comparison, the explanatory power must be regarded as strong.

The second hypothesis duplicates the material by adding a time frame to the sample. Focusing on one parliamentary year from before and one from after 2006 makes the comparison between minority and majority government possible. The chosen years are 2005/2006 and 2006/2007 to be as close to each other as possible. This has several advantages; it guarantees that the working methods in the committee have not changed substantially. This is especially important when choosing which post-2006 parliamentary year to focus on since the Riksdag act where changed and the involvement of the standing committees on EU issues

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<sup>13</sup> In the following the stenographic records will be referred to as SR followed by the date of the committee meeting and the pages referred to. The stenographic records are published in 'Riksdagstrycket' which is the printed collection of the Riksdag committees' documents, for example law proposals, protocols and written reports. Consequently, commented agendas will be referred to as CA and the number of the point followed by date. In the reference list it will only be referred to by CA followed by the date. The memoranda for points on the commented agendas will be referred to as CAM followed by number of the point and date of the committee meeting. It should also be noted that only the documents referred in the thesis is included in the reference list even if all the stenographic records and commented agendas for the council configurations during the sampled years have been included in the analysis.

increased. The working methods also changed during the period before 2006. From 1995 to 2005, a form of institutionalisation and a continuous development took place that changed the working methods of the committee and the Riksdag to better integrate EU issues in its everyday practice (Hegeland 2006: 318ff). This trend must be regarded as ongoing and therefore two on each other following parliamentary years have been chosen. One drawback with choosing one year in the end of a term of office and one year that is in the beginning of another has to be emphasised. When a cabinet is beginning its fourth and last term of office it can be assumed that they are more accustomed to the working methods of the EU committee and all procedures accompanying it than in the first year of office. Also the members of the EU committee are changing when the composition of the Riksdag is changing. On the other hand, it must also be assumed that some continuity is preserved and that a complete system does not collapse due to an election. It is also assessed that the legislative change to a larger degree would affect the latter year (2007/2008) and would thus cause more damage to the study. This sample is considered this, defensible.

Finally, in an ideal world the minority-majority divide would still include the same governing party in both cases to not be left with governments that just have different priorities. In social sciences, that kind experimental design is seldom possible and it is necessary to accept the given reality. Some of the most severe drawbacks of this are avoided since the comparison will cover two different issue areas. These comparisons will also to as large extent as possible be done between similar issues, both regarding the character of the topic and the stage of decision-making.

The comparisons for the first two hypotheses are illustrated with arrows in the following figure:

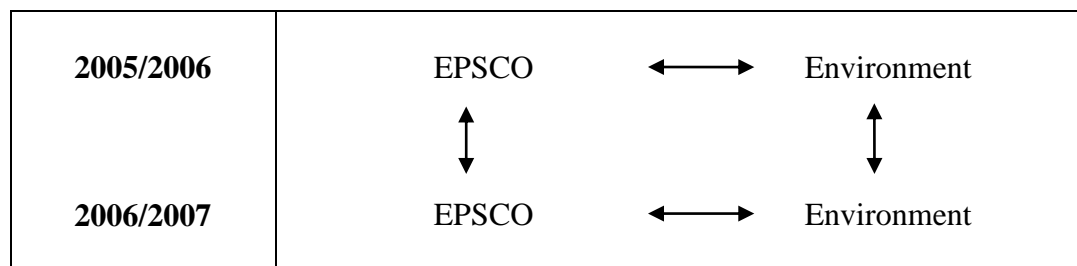


Figure 2.1

The third hypothesis will not add any further material but will be tested through observations in both council configurations during both years. Taken together, the material contains four committee meetings each year in the Environment council and three meetings 2005/2006 and four meetings 2006/2007 for EPSCO. Using this somewhat limited sample of issues and meetings might leave the study with a pilot character rather than an all inclusive research design. This argument will haunt any sample although it is here found to be balanced and enough to perform the analysis. As it is also complemented with interview material it should not be regarded as too problematic.



### 3 Negotiating Mandates – Room for Manoeuvre or Tight Constrains?

The labelling of a mandate as flexible or leaving room for manoeuvre for negotiators in council negotiations has been indicated in previous research but no thorough examination of what flexibility actually means has been conducted (cf. Bal 2004: 129; Auel 2007: 492; Benz 2003: 89). The word flexibility is easy to define theoretically at a high level of abstraction. According to the Cambridge Advanced Learner's Dictionary online the word flexible is defined as the ability to change according to different situations (CALD 2009) which is not very precise but sufficient to get an overall character. To be flexible in the most extreme sense would then mean that the individual minister would have *carte blanche* to act and respond to any upcoming situation and to be completely autonomous (cf. Jachtenfuchs and Kohler-Koch 2005: 104). The opposite of this would consequently have to refer to the *inability* to change according to different situations (because the hands are tied by a given instruction). In between these two extremes (which are unlikely to be found in real life), the variation of different degrees or nuances of flexibility is almost indefinite. This implies that it is necessary to not see the mandates from two categories – flexible and non-flexible – but as several categories following a continuum. Obviously, this can create analytical problems since the categories can hardly be predefined. On the other hand, the problem can easily be turned into an advantage as an open-minded approach leads to an analysis that is not constrained; it makes it possible to think outside the box. This in turn is likely to produce results that enlighten rather than trivialise even though it requires more from the researcher (Esaiasson et al. 2007: 245).

This of course raises the question of the necessity of having a theoretical definition at all. It is argued here that an overall understanding of what flexibility is must be seen a prerequisite for making a meaningful operational definition (Esaiasson et al. 2007: 59). Also, concepts that are problematic to define are often more interesting to deal with but difficult to operationalise (Esaiasson et al. 2007: 66). The next section will nevertheless provide an attempt to do so.

### 3.1 Operationalising the Level of Flexibility: Developing Analytical Tools for Characterisation<sup>14</sup>

Derived from the abovementioned, flexibility must not be seen as absolute but as relative and moving along a continuum. The operationalisation will be based on the theoretical outline provided but it must also be complemented by empirical observations to not be inapplicable. In this sense the operationalisation will be both deductive and inductive. It also generates a definition that is mainly valid for Sweden and does not apply to other EU member states although it may open a window of opportunity to do comparisons.

When motivating the usage of interviews above, the issue was raised on what information that can be expected to actually be revealed in the EU committee. It was put forth that the cabinet cannot be expected to disclose all details about their negotiating position since it would undermine the state of negotiations. The question is which details are omitted. The analysis of the material from the EU committee is inevitably focused on what is voiced in it and this basically means that parts of the mandates are missing. Every nitty-gritty detail of an issue cannot be covered by a mandate and that implies that if the negotiations also comprise these, the negotiator would have to rely on both what has been said during previous meetings in the EU committee but also a feeling for what is parliamentary acceptable (interview Danielsson 2009). This is also a necessity due to that the standpoint that is discussed is always to the proposal on the table and the mandate is needed for details where no agreement is set. If issues appear that are not explicitly covered in the mandate, there is always the ordinary parliamentary mandate and responsibility that any cabinet is elected on, to act according to (cf. Müller et al. 2006: 9f).

An important distinction that has to be made is between having a flexible mandate or a mandate that does not cover all details of a proposal and having a mandate that it is possible to go beyond. For Sweden, there is as mentioned no legal obligation to follow the mandate although there is a political commitment to do so. Of course, it is up to every single minister to decide whether it is defensible and s/he is also accountable for the action taken. This applies to all EU council configurations and thus to all ministers acting in it. It also means that the *ability* to agree to something that goes beyond the mandate has nothing to do with the actual mandate. It is something that is external to it.

A general comment about the cabinet having a position to say yes has to be done. This type of standpoint to a proposal must be regarded as a closed mandate since it refers to an instruction to act in one specific way – to concur. The question is if this should be regarded as a *negotiating* mandate since it can hardly be

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<sup>14</sup> The outline here will to a large extent be based on observations from the EU committee material gathered for the council configuration dealt with in this thesis. Examples will follow when the hypotheses are evaluated in chapter 4 below. This also means that no references will be done other than to sources that are not included in that sample.

expected that there are any outstanding issues to negotiate at the council meeting. It is at that point too late in the process and the issue has almost become an A-point that only need formal approval. It must be assumed that the mandate in those cases do not cover any unforeseen events and should it appear a situation where the initial EU proposal would change substantially on details that have not been covered earlier in the process, it would have to reappear for another round in the Riksdag to give the committee the opportunity to have an opinion on the arisen situation. The argument is therefore that these issues cannot be analysed since there is no negotiation to give a mandate for.

What constitutes the mandate is primarily the discussion in the committee and what is expressed there is the latest version of the cabinet position. This position includes different sorts of formulations that can leave more or less interpretative space of where the outcome is desired to land. Since it is impossible and not very helpful to make predefined categories for this analysis, a set of indicators for whether a mandate should be seen as more or less flexible will be used to reduce the risk of being too arbitrary. This should not be seen as a strict model and the analysis will be based on an overall judgement of the mandates. Primarily the following three indicators will be used.

Firstly, the mandate's flexibility will be judged upon the discussion in the committee and the raised issues. The members of the committee are commenting on the proposed standpoint from the cabinet and the cabinet representative can take the discussion with him/her as an addition to the position. It is vital to make the distinction between a comment or question and an addition and this is both a matter of the response from the cabinet representative and what the comment or question is about. The question has to lead to a clarifying of the cabinet standpoint to actually constrain the negotiating mandate further and thus become an addition. For comments, it is also an issue of whether the cabinet representative is reacting by an answer that the initial position is maintained or an answer that is in compliance with the comment. It is not always clear if an addition is made but it has to be assumed that either the cabinet representative or the chairman makes a comment if something is added to the initial standpoint. This is hence a matter of how the committee can steer the cabinet and make its position clearer. It is also necessary that the clarifications are related to the proposed standpoint and not to something else. This might sound obvious but for example, considered in the light of the mandates to say yes, the clarification has to cause a shift in the position to constrain the mandate. If it does not, the cabinet is left with the initial mandate and there would still not be any prospects for discussions in the council.

The second indicator is how detailed the mandate is, which is also related to and sometimes a consequence of the previous point. How detailed the discussion and the standpoint is indicates how constrained the mandate is. If the cabinet has to disclose a lot of details about its standing on different aspects of the issue, it means that it has to act accordingly. This implies that the clarity of the standpoints and the preference between aspects of it but also its rigidity lead to a less flexible mandate. The rigidity refers to whether the cabinet representative has an instruction that includes the possibility to back on aspects in the position and whether it is clear within what range an agreeable outcome is located, how open it

is. If information on this is absent can – accordingly – the mandate be very detailed but still flexible.

Thirdly, mandates are occasionally conditional, meaning that the standpoint or the mandate to consent is dependent on a set of criteria that have to be fulfilled to make the agreement acceptable. These are often posed for very concrete details and it makes the position very precise, especially for what is and what is not negotiable. Another variant of conditionality is when it is stated that as long as some details in the proposal are kept, a larger room for compromises on other details can be accepted. The latter variant is regarded as weaker since it does not put any further demands on the proposal. A similar reasoning can be applied to the mandates to say yes, it is also conditional in the sense that it only covers the proposal as it stand, it is possible to agree on as long as no changes are done.

The three indicators can be summarised as following the two dimensions ‘Amount of details’ and Acceptable agreement’ illustrated in Figure 3.1.

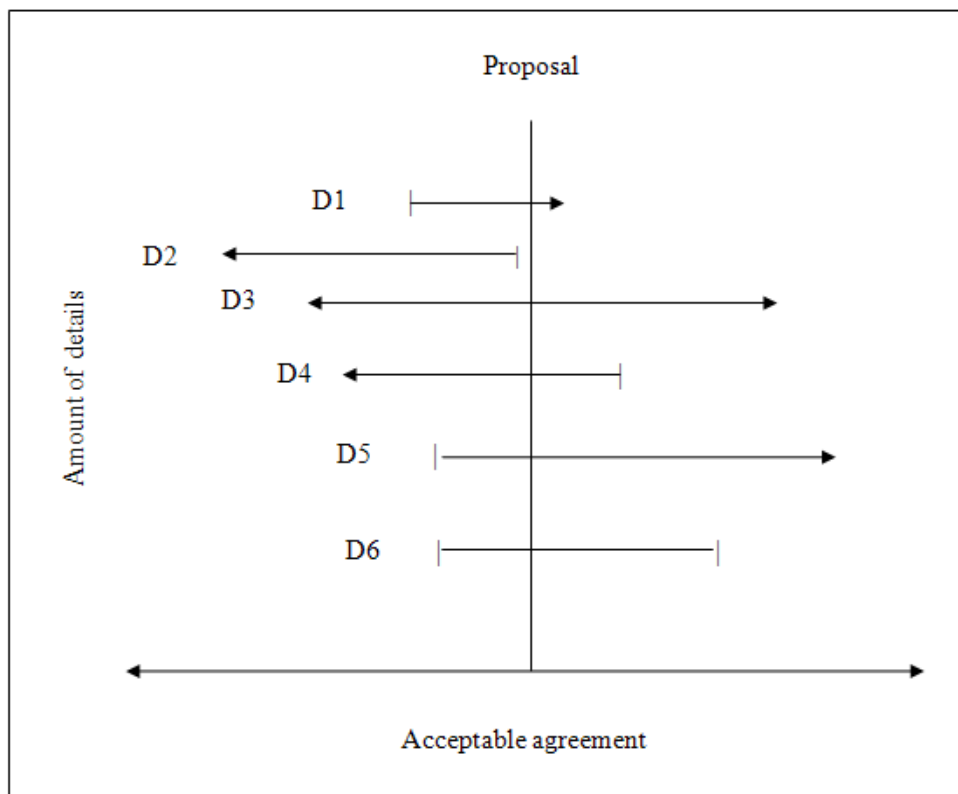


Figure 3.1

The first dimension is the amount of details that the cabinet are revealing for the committee, which is indicated by D1 (Detail 1) to D6 (Detail 6) in the figure but which of course can be either more or fewer. It is secondly also a matter of clarity of those details. In the figure, each detail is indicated by a line that either ends with an arrow or a stop line. Every agreement that does not go outside of a stop line is acceptable and where the line ends with an arrow, any agreement in that direction is acceptable. This also means that on Detail 6, the span of what is an acceptable agreement is known whether for the other details, one or none of the acceptance lines are known. The vertical line in the middle represents the proposal

on the table. The details in the figure can also be conditional on each other. Both dimensions contribute to the judging on which mandates are flexible. However, what is most decisive is whether the details are more or less bound, if the range of acceptable agreements are known and how wide it is. In that sense, the amount of details is subordinated. Regardless of how many or few details are revealed, if they are not precise enough they can hardly be seen as something else than flexible.

The mandate is obviously related to the issue at stake and how close to the EU proposal or compromise one's own preferences are. If there is a lack of correspondence between the opinions of the other EU member states, the national cabinet and the national parliament, it is obvious that a lot of details need to be evaluated. On these types of issues it is often more obvious, not only what is agreeable but also what is not agreeable. It is also on these issues a clear mandate is needed. This, in turn is dependent on where in the decision-making process the issue is located. The level of concreteness and amount of details will vary in different stages of the process (interview Gustafsson B. 2009). There is a tendency that in the initial stages of a decision-making process, the intension is to find the frames and the forms of a future potential agreement. This naturally leads to fewer details but also more open formulations. In the final stage of decision-making, where the negotiations have already taken place, there is only the stage of agreeing left, as was touched upon above. In between these stages, the issue is negotiated and that is where the detailed discussions take place. Another issue on the detailing of a mandate has to be raised. The period after the reform to involve the standing committees more on EU issues would presumably imply that fewer details on the factual matter would be discussed in the EU committee. During the meetings scheduled after the reform went into force and that are included here, the chairman has continuously reminded the committee members of what to focus on (cf. SR 2007-02-16: 33; SR 2007-06-20). This show that details are still discussed and that at least for the period in this sample, the changes are minor.

Under this headline, a practical understanding of a flexible mandate has been developed. It is important that every operationalisation is evaluated to accurately reflect the theoretical definition, to secure the conceptual validity (*begreppsvaliditet*) (Esaiasson et al. 2007: 63). The indicators and the two dimensions mentioned capture the ability for negotiators to change position during negotiations. The operationalisation can however not be seen in isolation and what is most critical when it comes to what the mandate is based on is the fact that the complete mandate, including the ordinary parliamentary responsibility is not utterly explicit. This also comprises whether the mandate is more or less flexible. Nevertheless, given the current material, the operationalisation must be seen as providing a solid analytical base. The fact that the interviews add further insights to the analysis is also a way to get around this problem.

## 4 Testing of Hypotheses

### 4.1 Flexibility in the Negotiating Mandates for the Council Configurations

The examples that here will be presented under each year of council meetings should be seen as representing negotiating mandates where it is possible to perceive where the boundaries for what is agreeable is positioned. It is important to note that a lot of the positions that are presented for the committee are very clear and especially those who are presented as a standpoint to agree to a lying proposal. It must also be mentioned that the following presentation and the comparisons will not contain any quantification of arguments but will rather be based on an overall assessment of the cases. But in order to secure that this is done fairly, a systematic comparison along the indicators and the dimensions previously mentioned will be performed.

#### 4.1.1 EPSCO 2005/2006

Among the 37 agenda points to be dealt with in EPSCO during the parliamentary year 2005/2006 a lot of them have the character of information and there are not much of instructions about what is not agreeable. This character does not only apply to the actual information points on the agenda and points where decision is supposed to be taken but also for the negotiation points in between. The information that is given is often followed up with questions and the cabinet is presenting along which lines it is working. This is most often accepted. One clear exception is where the minister aims at informing about a proposal for an EU strategy on mental health where he wants to enter the council discussion and be constructive. The discussion in the EU committee changes this approach to a mandate where the minister should be completely clear that Sweden does not want this kind of strategy. The mandate becomes bound to this position although it is just an information point (CA12 2005-12-02; SR 2005-12-02: 34-39).

The discussions are often both detailed and with disagreements. The occurrence of additions to the cabinet position are frequent but so are the willingness to be open on issues where there are still disagreements in the council. One example of a different mandate than the one above is on the directive on working time where some aspects remain to be solved during the council meeting. The Swedish standpoint is fairly clear and detailed and on a few aspects it is

stated what is not agreeable. At the same time, the minister emphasises that there are disagreements in the council. There has to be room for compromises because the outcome is uncertain and especially UK has a very strong position. The Swedish minister wants an agreement at almost any price (CA6 2005-12-02; SR 2005-12-02: 19). The same issue returns with a similar flexible formulation six months later (SR 2006-05-31: 18). On the issue of opening an institute for gender equality, there is a detail on how large the institute should be that remain to be solved. The clash here is between the European parliament and the council where the council and thus the Swedish government have a position that there should be one member from each EU member state whereas the European parliament wants a smaller number of staff. The Swedish position is that they are willing to back on that demand to secure a quicker launch of the institute (SR 2006-05-31: 12-14).

One issue that in many ways is characteristic for the overall assessment of this year's EPSCO is the proposal about having a common European stockpile of influenza antivirals for a potential pandemic flu. The Swedish position is firm that EU should not have this capacity. However, neither the minister nor the cabinet standpoint is stating whether it is acceptable or not. The follow up questions on the meeting about how this stockpile could potentially be used are to a large extent left unanswered (CA19 2006-05-31; SR 2006-05-31: 6ff). There are, in general very few examples of issues where the cabinet is stating its red lines or where the mandate to consent to something has clear conditions. The discussions must nonetheless be regarded as fairly detailed and a lot of the questions and comments are leading to clarifications of the cabinet standpoint.

As a summary it has to be concluded that the negotiating mandates are flexible in the formulations and it is rarely stated where the red lines are. The discussions and the mandates are often detailed but at the same time formulated flexibly.

#### 4.1.2 EPSCO 2006/2007

The 42 points on the EPSCO council agenda during the parliamentary year 2006/2007 show different levels of flexibility. Almost all of the proposed standpoints from the cabinet are positive to the EU direction and there are often no details about which issues to emphasise. The meetings in the committee do clarify the positions of the cabinet on several issues with questions and comments from the members. It is also common that the members of the committee are pointing out that the cabinet representative should emphasise at the council meeting that the Swedish position is to not transfer any competence within the given area to the EU even if it is possible to have more general discussions (cf. SR 2006-11-24: 37f; SR 2006-11-24: 34f). On one occasion the position gets clear to the extent that the minister explicitly mentions that there might be suggestions to increase the EU decision-making competences in the given area on the council meeting and that she will be restrictive with giving that up. The formulation is vague and she does not state if it is agreeable or not (SR 2006-11-24: 56). Additions to the initial position are also done, for example about the definition on violence against children and also on a suggestion to try to change an unfortunate

headline about 'active ageing'. One of the committee members thinks that the formulation can be interpreted as the EU should actively promote faster ageing (SR 2007-05-25: 33; SR 2007-05-25: 51f).

On the issue of a decision on guidelines for employment policies there is a clash on the size of the budget between the European parliament and the council. It is stated that it is important for Sweden that the budget does not increase but it is neither in this case stated whether it is acceptable or not (SR 2006-11-24: 49). In another of the proposed standpoints, on the directive on the portability of pension rights, a detail is lifted where the Swedish standpoint is that the directive should provide a framework and not set detailed rules. It does however not mention anything of whether it would be acceptable if the demand would not materialise (CA15 2006-11-24). When the issue returns in the EU committee six months later, the position is clearer although the initial question has been taken out, and the mandate has been made conditional. It is stated that the Swedish position is flexible for the remaining issues as long as the demands that Sweden has advocated and the changes that this has led to persist (CAM9 2007-05-25; SR 2007-05-25). This is also the only occasion during this year where a mandate has been made conditional. Furthermore, the issuing of a directive on working time that was mentioned above has come to a compromise where the Swedish minister is keen to get an agreement and hence there has to be room for manoeuvre (SR 2006-10-27: 15). Another explicit flexible mandate is given on the outstanding issue about a European year to combat violence within the DAPHNE III programme on the fight against violence. The Swedish position is to be flexible on that particular issue (SR 2006-11-24: 41).

To sum up, the mandates seems to generally be quite open and the cabinet representatives can state along which lines they are working but with no constraints regarding what is acceptable or not. Although a fairly large amount of details and clarifications of the standpoints are presented, it appears to still be a lot of room for interpretations.

#### 4.1.3 Environment Council 2005/2006

The EU committee meetings on the Environment council the parliamentary year 2005/2006 include 29 agenda points. The discussions on the Swedish position are detailed. Expressions about leaving room for agreements that is not in line with the cabinet standpoint are not frequently used although they exist. On many issues Sweden appears to have a progressive standpoint and not many allies.

The discussions in the committee often lead to a quite strong support for the proposed standpoints. On a discussion on the chemicals directive REACH, the minister gets a mandate to push the negotiations but with consent to maybe back on a detail of registration if there is a possibility to get something in return. The discussion on REACH is detailed and contains a lot of clarifications but in the council, Sweden has trouble to get sympathy. Even if there are requests from some of the committee members to get an answer of how far Sweden is willing to back, the minister do not want to speculate since a package deal will probably be



presented. She still makes some comments on where some kind of red line is located and with a few examples she is presenting what is not agreeable. She also proclaims that Sweden is not afraid to vote no (SR 2005-10-14: 1-14). This must be seen as conditional and quite clear but also to leave some room for manoeuvre. Conditional mandates are used on several occasions for issues in the Environment council which also means that they are clearer about what is not agreeable. On a proposal for a directive on the assessment and management of floods the Swedish standpoint is that it should apply only to larger cross-border drainage areas, a position that is not likely to materialise. The condition set up to consent is that other important changes, mainly formulations about the domestic organisation of the management of floods that Sweden has contributed with, should be kept (CA3 2006-06-21). Another sort of firm position is taken on the directive on air quality where a compromise proposal from the presidency is discussed. The Swedish standpoint is stating that Sweden *cannot accept* a longer time frame for the decrease of one type of small particulate in the urban air (CA4 2006-06-21). Both these examples show clearly where the red lines are in the negotiation and the mandates have to be seen as fairly inflexible.

On other occasions, the standpoint is not equally precise. During one meeting the decision-making process on acceptance of different GMOs in the EU are discussed. The problem that is identified is that it is sometimes difficult to come to a decision in the council and the issue of whether to reform the process is initiated. The Swedish position is, according to the commented agenda that this necessary to discuss (CA7 2005-11-25). During the EU committee meeting the question is raised and commented on from different angles. However, the minister is not really taking a position and it can only be assumed that she will carry the discussion with her and form an initial opinion if required at the council meeting (SR 2005-11-25: 72ff). Another example is when an addition to a spring summit from the Environment council should be agreed on the overview of the environmental politics and the position is, without further clarification, that Sweden can be flexible in solving the remaining issues (SR 2006-03-03: 32f).

What can be concluded from this is that the mandates have some room for manoeuvre but are fairly precise in how far it is possible to go, where the red lines are. It is also obvious that the discussions in the committee are detailed and that there is strong support but also strong opinions about what position should be pushed.

#### 4.1.4 Environment Council 2006/2007

The Environment council had during the parliamentary year 2006/2007 30 points on its agenda. The discussions are often detailed and the standpoints are on several occasions scrutinized by questions and comments which also lead to clarifications. On one issue there is a clarification by the minister on the Swedish position to take a second hand position on an EU target for green house gas emissions for an upcoming UN negotiation on climate change (SR 2007-02-16: 16). On another occasion, the Swedish voting strategies on a regulation on safe

storage of mercury are discussed. The state secretary informs that if the European parliament will support the Swedish position that liquid mercury should not be stored, which is not shared with the council, the Swedish delegation will abstain from voting. If, on the other hand the European parliament is accepting the council proposal about storage, the Swedish delegation will vote yes since there is no prospect for future success on this issue. Later during the same meeting another voting strategy is discussed, the state secretary explains that there is probably no prospect for Swedish success and the question is whether to vote no or abstain from voting. It is stated that it will depend on what like minded member states will do (SR 2007-06-20: 8ff). Another example where the Swedish position is left open is on a few outstanding issues on the directive on waste. The standpoint states that Sweden can be flexible on the issues left to be solved in the upcoming council meeting. It is clarified in the discussion to be issues concerning restrictions on import and export of waste (CA3 2007-06-20; SR 2007-06-20: 4ff).

A lot of the standpoints are fairly detailed but they are at the same time formulated vaguely. On the council conclusion about the EU emission trading scheme, the standpoint is that Sweden is not satisfied with some of the formulations about including the transport sector. Sweden also wants to as large extent as possible have auctions on the allowances in the trading scheme rather than give them out for free. Even if the position is clear it leaves a lot of space for interpretations since the formulations does not state what the goal for the Swedish negotiators is (SR 2007-06-20: 12ff). This illustrates how the position can be detailed but still leaves room for interpretation and manoeuvre. It also exemplifies the character of the mandates in the Environment council this year quite well. Often the Swedish position is fairly clear but not rigid and precise in the sense that it states what is and what is not agreeable.

On one issuing of a directive on air quality the mandate given is conditional and the position is that Sweden should abstain from voting unless vital parts of the Swedish opinion are considered. There is however no belief that this will happen since the compromise is accepted by a majority and the council will agree at the meeting (SR 2006-10-20: 17f). For similar reasons as having a mandate to say yes, this can be questionable as a negotiating mandate since no negotiations are expected to take place at the council meeting. This decreases its importance.

Taken together, despite that they are often very detailed and with firm ambitions, the mandates given for negotiations in the Environment council during 2006/2007 lacks information on how far to push the negotiation and within which boundaries the acceptable agreement lies. Even if a lot of details are revealed they are also quite openly formulated which gives the cabinet a lot of negotiating leverage.

## 4.2 H<sub>1</sub>: Issue Specific (Tradition) Hypothesis

At a first glance on the parliamentary year 2005/2006 it is obvious that differences exist between how different issues are handled and how flexible the mandates are.

It is apparent that the issues falling under the Environment council are leading to less flexible mandates than the issues in EPSCO. It is generally more clarifications and more details on both the proposed standpoints and in the discussions in the EU committee for environment issues than for issues belonging to EPSCO. The prevalence of explicit statements about what is not agreeable and hence where the red lines are positioned is greater on environmental issues and so are the presence of conditional mandates. All the indicators used are therefore supporting the hypothesis which gets further strength when considered in the light of that there are a larger amount of points on the EPSCO agenda than on the Environment council agenda.

For the parliamentary year 2006/2007 the difference is not equally clear-cut. The standpoints and the discussions can be very detailed and clarifications are regularly done. The difference between EPSCO and the Environment council are in that respect not very large although the proposed standpoints as well as the discussions on environment issues tend to be somewhat clearer. In neither of the cases are formulations used regarding what is not agreeable nor are there any frequency in giving conditional mandates.

The experiences of this among the interviewees are neither completely coherent. Three of them are testifying and can agree to that there is a trend pointing in the direction of less flexible mandates on environment issues. There is in this a perceived clash between being in opposition and in government position that is not ignorable. One of the interviewed parliamentarians point to the fact that for the opposition it is perhaps easier to demand even more progressive and more offensive policies since they do not have any responsibility to get to an agreement. The opposition would then be keener to constrain the mandate, especially since that might give good publicity when there is a strong public interest (interview Granbom Ellison 2009). That the cabinet was in minority in the Riksdag during 2005/2006 can then actually be an explanatory factor for why there is a perceived difference between the two parliamentary years. This will be further discussed when the next hypothesis is evaluated below.

Another parliamentarian suggests that, at least theoretically the room for manoeuvre will diminish if the opposition has voiced an interest that is more ambitious than the cabinet's. This is because there will be more pressure on the cabinet representative to come home with a good result (interview Gustafsson H. 2009). Another parliamentarian is just stating that since the members of the EU committee are paying more attention on those issues, it diminishes the room for manoeuvre. In another sentence it is also declared that this is one of the most decisive aspects (interview Holm 2009). One parliamentarian would not agree since there is often no need to sharpen up the proposed standpoint due to the similarities between the parties on these issues (interview Hamilton 2009). Another of them has not identified any differences but maintains that they might exist (interview Gustafsson B. 2009).

#### 4.2.1 Conclusion H<sub>1</sub>

The first hypothesis will have to be concluded by that the negotiating mandates are less flexible for issues dealt with in the Environment council than in EPSCO during the parliamentary year 2005/2006. This is not equally clear during the latter year even though the mandates for issues in the Environment council appear to be slightly more detailed. This shift on especially the environment issues might, as mentioned and as will be further elaborated on when the second hypothesis is discussed, be explained by the cabinet formation. Some support for the more general hypothesis that the mandates are less flexible for environment issues than for others are given in the interviews, which also have a more longitudinal perspective. In a more general sense the question can be posed if a strong interest will lead to a less flexible mandate. There are indications pointing in that direction. Jan Olsson mentioned that on issues with high political significance there might be a natural hesitance to give a very open mandate (interview Olsson 2009). Also Ulf Holm is in a more general sense stating that issues where Sweden has a strong interest, where there is a lot at stake will lead to a tighter mandate (interview Holm 2009).

One factor that problematises the ability to draw well founded conclusions is that the sample is fairly limited. Just focusing on two parliamentary years obviously limits the ability to generalize. There is of course also a risk that variations of this kind are coincidental, that the sampled years are not representative. A larger sample would of course have brought clarity to that. An additional problem with the sample but which might also contribute with explanatory power to why these two council configurations differ is pointed out by Lars Danielsson. He stated that on issues where EU has strong competences and Sweden has a strong interest, the standpoint will be formulated more strictly (interview Danielsson 2009). One key factor might therefore lie in that the EU competence is larger on environment issues (full competence) than on the issues falling under EPSCO. Most EPSCO issues are traditionally domestic, such as employment and health policies where the EU competencies are weak and where the outcomes are more often non-binding or voluntary (Hix 2005: 252-261). The intention is not full harmonisation but increased convergence. This also results in that a lot of the EPSCO issues are not about legislation but rather on strategies and learning processes (Mattson and Jacobsson 2002: 223ff). If the EPSCO meeting does to a lesser extent produce legally binding outcomes, this might severely weaken the interest and effort of member states. It can also be noted from the analysis of the council configurations above that on EPSCO issues, Sweden are often more defensive and do not want to transfer any competence to the EU. On environment issues, the competences are already there and Sweden has a progressive approach. This might increase both the interest and the opinions of the Riksdag and the EU committee.

Another issue is how to define a strong national interest and the question arises if this does not change over time. Priorities of governments differ and the shift in office 2006 can hardly be seen as an exception. On the contrary, part of a strong national interest is that it is backed by a wide segment of both political and

public life, that the dividing lines are thin. On a lot of the issues dealt with in the EU, national dividing lines are limited even if it on some issues is more so than on other (interview Olsson 2009). That Sweden is ambitious on environment issues from an EU perspective might have several implications affecting how the mandate is perceived. As have been stressed, the flexibility of the mandate might be affected by how far from the rest of the EU member states the Swedish ambition is. Should Sweden, on EPSCO issues lie closer to a European mainstream than on environment issues, it can affect the given mandate. In the council, it might either result in that Sweden gets an extreme position with few allies and a marginalised position, or that the strong and for a long time built up reputation of progressiveness results in a power position. When and how this occurs and how different types of mandates affect the negotiating position in the council is left as a suggestion for further research.

The last point to stress is based on the difference between if Sweden is affected by the decisions or not. When decisions concern issues that do not affect Sweden they might also be of less salience for the Swedish politician. Seemingly, as opposed to when Sweden has a strong interest, a weak interest defined as being unaffected by the decision might lead to a more flexible mandate. When negotiating EU legislation that will not have any effect on the Swedish legislation it might therefore be easier to give more flexibility (interview Holm 2009).

## 4.3 H<sub>2</sub>: Cabinet Formation Hypothesis

When comparing the mandates for EPSCO between the years there are no striking differences. In fact the mandates seem to have very similar character. During both years the standpoints are clear and detailed but still with room for manoeuvre. There are in both years a lack of rigidity in the positions and it is rarely stated what is not agreeable. One mandate during 2006/2007 but none of the mandates during 2005/2006 are made conditional. The balancing factor here is that during the year 2005/2006 the mandates are generally somewhat stricter and that the actual standpoints are more precise. The sum of this is that for issues on the EPSCO agenda, the flexibility of the mandates is not dependent of if the cabinet is in majority or in minority.

For issues on the Environment council agenda another trend is observed. For both years, a lot of details are revealed but the positions are often fairly vague. The discussions are often thorough and lead to clarifications for both years. The biggest difference is in how clear they are on what is not negotiable and where the red lines are. During the former year, this is clear on several issues while in the latter year this is almost completely absent.

If the cabinet has a minority or a majority position in the Riksdag is perceived to have different effects on the EU committee. Looking at if the mandates' flexibility has changed, the image that thorn up is not always completely consistent. Among the interviewees, who in this case have a wider perspective, some answers confirm that there is a difference. Christina Axelsson puts it

clearest. She is explicitly referring to it as being based on the minority and majority conditions and is stating that a minority cabinet is forced to be more precise and that any majority cabinet would probably try to have more flexible mandates (interview Axelsson 2009). Billy Gustafsson also perceives a difference and bases his answer on a feeling he cannot prove. He also admits that this feeling is perhaps based on the fact that he did not thought that it was equally controversial before 2006 since his party was in government (interview Gustafsson B. 2009). Also Karin Granbom Ellison is confirming that the logic would be that a majority cabinet can give more flexible mandates. This is a consequence of that the majority has more confidence in the cabinet since it consists of the own party's representatives (interview Granbom Ellison 2009). Both Holger Gustafsson and Björn Hamilton are stating that the aim is to have the cabinet to formulate itself clearly and that there is a willingness to have a strong support for the position taken. This would include having close to unanimity behind the position in the committee. Both of them do however agree to that a majority cabinet can have more flexible mandates but at the same time that this is scarcely used (interview Hamilton 2009; interview Gustafsson H. 2009). A reverse reasoning is provided by Ulf Holm who states that his impression is that the formulations have become clearer after 2006 since the cabinet know that the committee will pass the suggestions through, no matter what. The cabinet position is also clearer due to better structuring of the material that the EU committee receives and that the committee members are more careful in their evaluation of the positions. This is at least a tendency he has perceived since he first got a position in the committee in 2002 (interview Holm 2009).

#### 4.3.1 Conclusion H<sub>2</sub>

The reasoning lying behind the hypothesis, that the cabinet formation will influence how flexible the mandates are, seems to be supported to at least some extent in the material. It relies on the logic that the negotiators want an as open mandate as possible whereas the Riksdag wants to make it more precise. If the cabinet parties are in majority in the Riksdag and assuming that the cabinet party members are less eager to criticise or show a crackled facade they will not wish to constrain the mandate. What most clearly opposes this is that there is no difference between the EPSCO council for the two parliamentary years. It must perhaps be noted here where the initial position was. As has been shown, issues on the Environment council agenda where more bound than EPSCO issues during the year 2005/2006. For the year 2006/2007, they were close to equal. Since a majority cabinet would have more possibilities to decide by their own how much room for manoeuvre to leave for the negotiators, a homogenisation of the mandates can be expected. This might explain the shift. The difference may of course also, as has been mentioned, be a reflection of the changes in governing party in the cabinet. It is also important to note that for neither of the policy fields have the trend been reverse although one parliamentarian had that experience on the clarity of the cabinet positions.

## 4.4 H<sub>3</sub>: Two-level Game Hypothesis

The position of other member states in the EU council are frequently mentioned in both the background material and in the EU committee discussions<sup>15</sup>. Often, the questions relate to the Swedish possibilities to find coalition partners, either to form a majority or to get a blocking minority. On the decision to set up a globalisation fund the minister is asked if there are any possibilities in the council to get support for the Swedish scepticism to this. The simple answer is no (SR 2006-03-03: 13f). When discussing the chemicals directive REACH, the issue is also raised what possibilities Sweden has to get support from other member states (SR 2005-10-14: 11). Another similar way to motivate a standpoint by what other member states' positions are is to refer to a lying proposal as a compromise that considering previous negotiations and the impracticability of pushing another line will have to be accepted.

What the hypothesis is more precisely referring to is when the minister wants a more open mandate due to other states' strong interest. Observations of this can also be done in the material. On the directive on working time that was explained above, the fact that especially UK had such a strong position on keeping an opt-out made the Swedish cabinet to propose a quite flexible mandate. Lars Danielsson did also refer to the working time directive while exemplifying under what circumstances mandates are affected by other member states' strong national interests. The special position that the UK had, affected the Swedish position as far as Sweden itself did not have strong interests (interview Danielsson 2009). Moreover, when the council was about to adopt council conclusions for the upcoming UN negotiations on climate change, the environment minister rejected a comment from the Green party about constraining the mandate on a CO<sub>2</sub> emissions target. The argument put forth is that since the negotiations are sensitive and some member states might have difficulties accepting that target, a constrained mandate would not help to get a good agreement (SR 2007-02-16: 12ff).

That the negotiating mandate is affected on what other member states' interests are seem to be something that is widely perceived. Lars Danielsson maintained that it has an effect as long as Sweden does not have a strong interest itself, a view that is shared with Christina Axelsson (interview Danielsson 2009; interview Axelsson 2009). This is also indicated by Ulf Holm who did a reverse reasoning that if Sweden has a strong interest which is not shared with other EU member states and that is not likely to win sympathy, there would be no need to give the cabinet representative a flexible mandate (interview Holm 2009). This

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<sup>15</sup> It should be noted that there is a natural hesitance to reveal too much of where the different member states are positioned in the negotiations due to negotiating tactics. However, sensitive information can be made secret for the public after the EU committee meeting and before the stenographic records are published. In the material, this happens on a very limited amount of cases but is often related to other member states positions (cf. SR 2006-10-20: 18; SR 2007-06-20: 11).

would imply that the flexibility of the mandate is affected by other member states' positions even if it perhaps tells more about the effects when Sweden has a strong interest. Another interviewee mentioned that what position other member states have touches upon how flexible the mandates are (interview Gustafsson B. 2009). Holger Gustafsson states that the positions of other member states are important, not least when it comes to estimate where a compromise may land. What theoretically can be done in situations when there is uncertainty about some other member states position is to give the cabinet representative a more flexible mandate (interview Gustafsson H. 2009).

#### 4.4.1 Conclusion H<sub>3</sub>

That the expected position of other member states affect the mandate that is given to Swedish negotiators in the EU committee is quite clear. Most interviewees have experienced this and it is also found a couple of examples in the material that proves the point. The question that remains and which is more difficult to answer is with what frequency and under what circumstances this happens. It seems to be a requirement that the own position or interest in the issue is weak to be able to perceive an influence.

One way to look at the situation and that is stressed by Lars Danielsson and Holger Gustafsson, who both has a long term perspective on the EU committee, is that one big difference came with the enlargement of the EU in 2004. During the period before the enlargement, the member states had to consider the opinions of 14 other member states, which increased to 24 member states in 2004 and subsequently 26 in 2007. This also had an effect on the negotiating mandates that became more flexible due to the changing setting (interview Danielsson 2009; interview Gustafsson H. 2009). This shows how not only a strong interest but also the amount of interests can have an influence on how flexible the mandate is.

This hypothesis can also be given a further dimension by adding the council meeting reports (återrapport) that are delivered in the beginning of all EU committee meetings. This is a report from the last EU council meeting held for the council configuration that the EU committee is about to discuss. The cabinet is giving a report on what was agreed and the Swedish action at the last council meeting and the committee members can pose questions and follow up how the mandate has been used and if there have been any deviations. If there are, the reasons delivered often refer to that there are other member states with other interests that were not persuaded by the Swedish position (interview Gustafsson H. 2009). This is an *ex post* control function that the Riksdag has and it can of course not change the agreement from the council meeting but it is nonetheless an important tool in the mandating procedure.

It should be recalled from Andrew Moravcsik above that there might be an element of manipulation here which would follow the two-level game logic. The cabinet has of course an information advantage against the EU committee on what is happening in the EU council. The problems of control in these situations are also identified by Ulf Holm (interview Holm 2009). Basically, the cabinet has the



ability to use the information advantage to motivate a more flexible mandate which would not easily be controllable for the committee members. There might also be an element of self-interest from the cabinet in these situations, both to get a mandate that is easy to negotiate with but also that the cabinet presumably would not want to put forth an image of oneself as having lost something in the negotiations. This is of course based on speculation but the mere fact that the possibility exists is interesting. It is also pointed out by Jonas Tallberg that the information advantage in addition to that the agent is likely to have slightly diverging preferences than does the principal provides a “strategic setting offering both an incentive and an opportunity for agents to pursue their own preferences at the expense of principals” (Tallberg 2002: 28).

## 4.5 Thinking Outside the Box: Seeking Alternative Explanations to Why Mandates Differ

Under this headline two alternative hypotheses will be presented that might have some explanatory power to why the mandates are made more or less flexible. Both of them have theoretical and empirical foundations but have not as rigidly been tested on the material.

The first of these potential influencers is that the decision-making rule – Qualified Majority Voting (QMV) or unanimity – used in the council affect the mandates’ flexibility. Several scholars have emphasised how the decision-making rule affects the EU negotiations in different ways. A first hint is provided by Ole Elgström and Christer Jönsson who state that “[a] unanimity rule tends to lead to agreements where the most reluctant actor determines the pace and the level of achievement”. It is further explained that no actor has any incentive to agree to something that is below their BATNA (Best Alternative To a Negotiated Agreement) (2000: 690), that is outside of the win-set. In this situation, it can be assumed that a tight mandate is, if not preferable than at least not able to be harmful in the short term to the actor with the mandate in question. Furthermore, under unanimity, the national parliaments can play the role of external veto powers since they have to ratify potential agreements from the EU. The rational choice for a parliament would under unanimity thus be to constrain the negotiators and impose less flexible mandates to be in charge of the process. The role as veto players has however diminished with the increased use of QMV and it has made it more difficult to impose tight mandates on the governments (Bergman et al. 2006: 174). Tight mandates can, under QMV hinder the negotiator from striking deals that at least partially corresponds to the interest of the member state (Benz 2003: 89f).

It can also be observed a cleavage between the cabinet, who is formulating the standpoints and the EU committee members. Lars Danielsson, who represents the cabinet perspective, stated that it is primarily an evaluation of the factual matter that is done when standpoints are formulated. At the same time, he agreed that

under QMV, the tactical considerations are more important and hence should the standpoint be formulated more openly (interview Danielsson 2009). None of the interviewees from the EU committee saw that this had any influence since there is no willingness to use the existing veto under unanimity (interview Granbom Ellison 2009; interview Holm 2009; interview Hamilton 2009; interview Gustafsson H. 2009; interview Gustafsson B.; interview Axelsson 2009). This might also reflect a lack of clarity in the EU committee on what decision-making rule that is used (interview Holm 2009).

The second of the potential influencers are based on trust. This was touched upon above when discussing the difference of having a majority or a minority cabinet. Karin Granbom Ellison perceived that the difference was based on the confidence in that the cabinet would perform well and could therefore be given a more flexible mandate. Also Ulf Holm stressed that the flexibility depends on whether the cabinet representative is known for being a good negotiator. Some ministers are more entrusted – regardless of what cabinet they belong to (interview Holm 2009). It is also by Lars Danielsson stressed that a minister that takes care of the relations to the EU committee will be given more confidence to negotiate (interview Danielsson 2009). The factor of trust between the committee and the cabinet representative might therefore add another perspective. Trust can ultimately be characterized as a state of confidence in a relation where there are no worries of being exploited by the counterpart (Ross and LaCroix 1996: 315). This can obviously be seen in relation to the agent's ability to act manipulative towards the principal. It is furthermore identified that "distrust in the BRP [Boundary Role Person] (agent) leads to a reassertion of authority and additional monitoring by constituents" (Ross and LaCroix 1996: 337). Taken together, there might be a factor of personality and skilfulness resulting in a trust capital that affects how flexible the mandate received is.

## 5 Conclusion

The level of flexibility in negotiating mandates given in the Riksdag's EU committee differs. What influences the mandates must be concluded from the analysis to be a set of factors that dependent on the situation depicted can explain different outcomes. It is important to not be presumptuous and believe that the thesis has once and for all proved the point in the tested hypotheses but rather that they show that there might be some explanatory power in them. The hypotheses and the results are also limited to the time and the issue areas covered which is not least shown by that the mandates are not followed through the whole process of EU decision-making but only in a specific point in time. To grasp the full image of a mandate, the full process might preferably be studied. Issues are moving in the EU machinery and different council and committee meetings focus on different aspects. Consequently, the mandates also cover different aspects which altogether form a more comprehensive mandate, based on all deliberations in the EU committee. This should be seen in the light of that all comparisons have had the same base and are evaluated under equal conditions. None of the three hypotheses have been falsified and hence all have some explanatory power given the setting provided. In addition, two alternative hypotheses have been provided. They can all be said to form a set of factors that given different combinations of circumstances can prove to explain some of the variation in flexibility of the mandates. This might nevertheless still not be sufficient and all openings for improvement and further explanations are welcome, not least in a longer perspective. Thus far, the only straightforward answer that can be given to the second research question on why mandates differ in flexibility is that it depends; it is a matter of context.

The question arises how interesting the study of mandates is, especially in the light of that on EU affairs, the negotiator have no legal obligation to follow the mandate and can deviate from it if it proves necessary. Acting as the link between a principal and an agent, the mandate is still important not least for democratic reasons. Even if the thesis has not provided an analysis of the democratic implications of mandating and its functions, the connection is clear. This is no reason for conducting the study *per se* but as was also mentioned in the introduction, the mandating function of the EU committee and the shapes of the mandates have only been scarcely examined in the past. This thesis has contributed with some insight to that.

It is also in the next step, in the council meetings at Level I, interesting how it is used in the negotiations. Often, the desirability of having a flexible mandate is emphasised in the literature but it is seldom problematised other than for those member states that has very peculiar systems of mandating, like in Denmark (cf. Hayes-Renshaw and Wallace 2006: 245f; Benz 2003: 88ff; Maurer and Wessels

2001b: 451). A very flexible mandate or to even be autonomous in relation to the principal have several effects. As mentioned, when the accountability link is weak, a democratic deficit can be perceived. In the extreme case, where actors are completely decoupled but still acting on behalf of the principal, they would almost get the character of a Platonic philosophical elite (cf. Nordin 1999: 17-26) to govern with full discretion. On the other hand, a total involvement of the national parliament in council negotiations can severely affect the efficiency, expressed by Arthur Benz as the negotiation-accountability dilemma (2003: 89f). What was detected mainly in the interviews but also in the discussions in the EU committee was the wide spread but also to some extent contested understanding of how a less flexible mandate affect the negotiating position in the council. Several variables influence this. To begin with, are the red lines known, both for the negotiator but also for his/her counterpart. If the instruction is to vote no to an agreement below a certain level, there is a severe risk of being marginalised in the council negotiations if this is known to the counterparts. It is hence dependent of whether there is a desire to get to an agreement at all. If a non-agreement is acceptable, a very precise and inflexible mandate can rather strengthen a position that is already decided to be taken (interview Danielsson 2009). A further reasoning is that it might also be desirable with a precise mandate if the negotiations are expected to be tough. This is presented as an argument to be sure of and to know how strong the support for a certain position is domestically (interview Holm 2009; interview Hamilton 2009). It can lead to a stronger ability to push the issue and not to be forced out of the position taken (interview Olsson 2009; interview Granbom Ellison 2009). This will ultimately also, as was mentioned in the beginning of the thesis, increase the trust among negotiators at Level I that an agreement will actually be ratified and enter into force.

The question remains whether the different types of mandates facilitates the negotiations in the sense of producing an outcome in line with the given preferences. There is an obvious risk of agency loss in any part of a delegation chain, that the agent is not able to deliver what the principal wants (Müller et al. 2006: 23). To strike a balance between what is an unacceptable risk in terms of agency loss and how efficient the system is desired to be requires a solid theory of democracy. Nevertheless, some leverage to act must be secured for the politicians and even if it always involves a risk of agency loss, it might be worth to take in order to come to favourable agreements (Dunn 1999: 340ff). A further and more thorough analysis of how different systems are mandating the negotiators and how that affects the negotiations in the council is suggested.

At the end of the day, to fully understand on what grounds agents can be held accountable for their actions – on what instruction or mandate they are acting – is essential in any democratic system. The contribution done in this thesis to the study of mandates and delegation between the Swedish Riksdag and the cabinet on EU affairs must be seen in that context.

## 6 Executive Summary

Robert Putnam's coined label on international negotiations as characterized by a two-level game where negotiations are taking place at two tables simultaneously forms the point of departure for this thesis. The two negotiation tables or levels are represented by the EU council of ministers and the Swedish Riksdag's parliamentary advisory committee on European affairs (EU-nämnden) that was set up when Sweden joined the European Union in 1995. The responsible cabinet representatives – who are the link between the two levels – confer to the committee in advance of every council meeting to get a mandate and to secure ratification for agreements on the upcoming EU council meeting. The Swedish Riksdag, acting as the principal delegating power to the cabinet (agent) secures by this some accountability in that relation. The committee members can during the meetings discuss the cabinet's proposed standpoint with the representative and address questions and comments about the cabinet position. These discussions often lead to clarifications and occasionally changes of the standpoint before it is most often approved by the committee. The proposed standpoint and the discussion in the committee form the negotiating mandate for the cabinet representatives to act upon. It has in previous research been indicated that these mandates are formulated differently, that they are more or less flexible or that the negotiators have more or less room for manoeuvre. This aspect of the mandates is the main focus of this thesis. The questions that are posed are firstly; in what ways do the mandates given in the EU committee in the Swedish Riksdag differ along the dimension of flexibility? Secondly; what explanations can be found for the differences in flexibility? The second question is answered using three hypotheses. The hypotheses are tested by analysing material from the EU committee and by conducting interviews. The same material is used when answering the first question.

The hypotheses are derived from previous observations and theories. Firstly, an observation done by several scholars that some issues or issue areas can be identified as core Swedish interests forms the basis of the first hypothesis. The most distinguished of those issues are the environment and more precisely the Environment council, which is used as case to study. The need to contrast this became obvious and what is judged to be the most similar council configuration, EPSCO (the employment, social policy, health and consumer affairs council) is used as comparison. The first hypothesis is hence: The negotiating mandate will be less flexible for issues dealt with in the Environment council than for other issues, *ceteris paribus*.

The second hypothesis is derived from observations done that the Danish Folketing's EU committee's often perceived strong influence is traced to the presence of minority governments. Sweden has since the EU accession in 1995

until 2006 had, like in Denmark minority governments and that the governing party, the Social democrats (socialdemokratiska arbetarepartiet) cooperated with the EU sceptical Left party (Vänsterpartiet) and Green party (Miljöpartiet). This implies that the opposition parties got a crucial position on EU matters. This is likely to result in that the cabinet representatives would be given more constrained mandates since it had a majority opposition. The second hypothesis is therefore: The negotiating mandate will be less flexible if the cabinet is in minority in the Riksdag. This led to that one year with minority (2005/2006) and one with majority cabinet (2006/2007) is used.

The third hypothesis is based on the logic of the two-level game theory. The intrinsic information advantage that any cabinet has towards its parliament in EU and international affairs provides a reason to study the two levels in the theory simultaneously. Both levels influence each other and the standpoint that the cabinet is proposing and the subsequent mandate might be affected in how flexible they are. The information advantage that the cabinet has might be used to persuade the committee that other member states have strong interests on a certain issue and that the negotiations require that the mandate is given a flexible character. The third hypothesis tested is: The negotiating mandate is more flexible on issues where it is argued that other member states' preferences are strong. This hypothesis is tested on the material chosen for the other two hypotheses.

The ability to evaluate the hypotheses is dependent on if a definition of flexibility in the mandates can be provided. The word flexibility is used as a point of departure and is defined as the ability to change according to different situations. The opposite, to be inflexible is consequently defined as the *inability* to change according to different situations. These form the two extreme positions on a continuum where an indefinite number of positions in between can be detected. This theoretical understanding is operationalised into a practical and thus useful set of analytical tools that can be tested on the material. To this end, three indicators are developed by the author. The first is to what extent the comments and questions posed in the EU committee to the cabinet representative are leading to a clarification of the position and if they therefore can be regarded as additions to the initial position. The second indicator is in many respects intersecting with and a consequence of the first indicator. It evaluates how detailed the mandate given is, which includes clarity and rigidity of the mandate. Whether it is an instruction that allows to back on details and how much, but also how the preferences between different details of the mandate are. The third indicator focuses on if the mandate is conditional, meaning that there is an allowance to back on a detail to either get something in return or to preserve any given aspects of the so far negotiated agreement. Taken together, these three indicators can be summarised as moving along two dimensions. Firstly, the amount of details that the cabinet are revealing for the committee and secondly, how clear those details are. However, the amount of details is subordinated to the clarity dimension when it comes to evaluate their flexibility. Regardless of how many or few details are revealed, if they are not precise enough they can hardly be seen as something else than flexible.

The first hypothesis shows with some clarity that there is a difference between the Environment council and EPSCO in how flexible the mandates given to the cabinet representatives are. It is stated that these council configurations differ in EU competence and ambition which makes it very difficult to decide what it is in the issue areas that make them differ. It appears from the interviews conducted that more generally, the mandates given on EU issues where the national interest is strong will be less flexible.

The second hypothesis shows that the mandates' flexibility for environment issues differ dependent on if the cabinet is in majority or in minority in the Riksdag. The same tendency was not found in EPSCO. The more general observations from the interviews show that the possibility of having less flexible mandates when in majority government exists. It is also by some stated that it in reality makes a difference.

The third hypothesis adds another factor to the understanding of flexible mandates and it is found that, although not very frequent, motivations for a flexible mandate are presented based on that other member states have strong national interests. The interviews clarify that it must also be a consequence of that the Swedish interests are weak on the issues. Otherwise, the national interest will take over.

These three hypotheses are also complemented with two alternative hypotheses that have been found to perhaps further add explanatory strength. These are not as rigidly tested on the material even though the bases for them are found both theoretically and empirically. These are firstly what decision-making rule that is used. Under Qualified Majority Voting (QMV) more flexibility might be required to carry out the negotiations and not be marginalised whereas under unanimity there is always a veto possibility and an inflexible mandate might not to the same extent be a liability. The second factor is the trust between the EU committee and the cabinet representative where the former is assumed to give more flexibility to the latter if there is confidence that s/he will be able to perform in the negotiations.

The three tested hypotheses are all contributing with insights into what influences the mandates given in the EU committee and it is concluded that some explanatory power is detected in each of them, dependent on the given circumstances. The contribution to previous research and to the larger context, claimed by the author, is that to fully understand the delegation between the Riksdag and the cabinet and on what grounds the latter can be held accountable for its actions, the mandates given have to be studied.

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CA 2005-12-02. Kommenterad dagordning – EPSCO-rådet den 8-9 december 2005. Näringsdepartementet, Socialdepartementet.

CA 2007-06-20. Kommenterad dagordning – rådets möte (miljöministrarna) den 28 juni 2007. Miljödepartementet.

### 7.2.4 Speech

Klaus, Václav, 2009-02-19. *Czech President Václav Klaus addresses the House*. <[http://www.europarl.europa.eu/eplive/expert/multimedia/20090219MLT49975/media\\_20090219MLT49975.asf](http://www.europarl.europa.eu/eplive/expert/multimedia/20090219MLT49975/media_20090219MLT49975.asf)>, accessed 2009-02-24.

## 7.3 Interviews

Name	EU-related positions	Place and time for interview
Axelsson, Christina	Member of EU affairs committee 1997- for the Social democratic party.	Stockholm 2009-04-16, 50 min.
Danielsson, Lars	State secretary for EU and international affairs 1999-2002; state secretary for the prime minister 2002-2006.	Helsingborg 2009-04-06, 39 min.
Granbom Ellison, Karin	Member of EU affairs committee 2002- for the Liberal people's party.	Stockholm 2009-04-15, 1h 2 min.
Gustafsson, Billy	Member of EU affairs committee 2004- for the Social democratic party.	Stockholm 2009-04-14, 43 min.

Gustafsson, Holger	Member of EU affairs committee 1995-2006, 2009- for the Christian Democrats.	Stockholm 2009-04-16, 47 min
Hamilton, Björn	Member of EU affairs committee 2002-, Chairman of EU affairs committee 2006-11-17 – 2007-04-12 for the Moderate party.	Stockholm 2009-04-15, 25 min.
Holm, Ulf	Member of EU affairs committee 2002- for the Green party.	Stockholm 2009-04-16, 57 min.
Kinberg Batra, Anna	Chairman of EU affairs committee 2007- for the Moderate party.	Stockholm 2009-04-17, 1 h.
Olsson, Jan	Head of the EU committee secretariat 2008-.	Telephone interview 2009-04-27, 40 min.