



EXECUTIVE SUMMARY JOINT BODIES IN INTERNATIONAL AGREEMENTS OF THE EU

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EXECUTIVE SUMMARY

This executive summary is part of a project **funded by the EU's Horizon 2020 programme** (grant agreement No 840135), investigating 'joint bodies' in international agreements concluded by the EU.

With '**joint bodies**' we mean bodies established through international agreements and bringing together officials from the EU and third countries to implement the agreement. There are hundreds such bodies and their names vary, but examples are...

association councils (e.g., the EU-Turkey Association Council)

cooperation councils (e.g., the EU-Uzbekistan Cooperation Council)

joint committees (e.g., the CETA Joint Committee or the EPA committees with ACP states)

joint sub-committees (e.g., the Sub-Committee on Land Transport with Montenegro)

joint working groups (e.g., the Joint Technical Working Group on nuclear energy with the USA)

Other terms in use to refer to these bodies are, for example: treaty bodies, management bodies, implementation bodies, treaty institutions. We will use the term joint bodies in this summary.

Given the high **public interest** in these bodies – as is evidenced, for example, by the rulings on the CETA Joint Committee by the German Federal Constitutional Court or the widespread attention attracted by the Partnership Council and joint committees established with the UK after Brexit – we have conducted a scientific study on them and present the main points in this executive summary.

The empirical foundation of our summary are 547 international agreements concluded by the EU since 1992, of which **296 agreements** set up at least one joint body. This means that **about 50 percent** of all agreements concluded by the EU include joint bodies (N.B.: This number excludes agreements that only amend or revise another agreement).

This finding alone already supports the premise of our project that **joint bodies are a key tool for the EU** to shape EU external relations.

What do joint bodies look like?

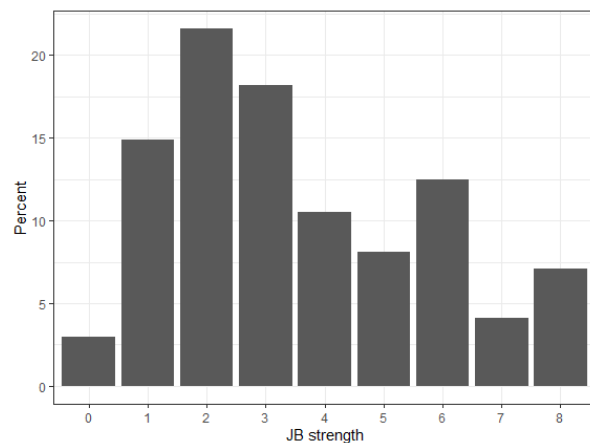
Joint bodies show **considerable design variation**. While the strongest joint bodies receive the bulk of the attention, there is actually a wide variation of how ‘strong’ joint bodies are in different agreements.

How ‘strong’ are joint bodies (JBs)?

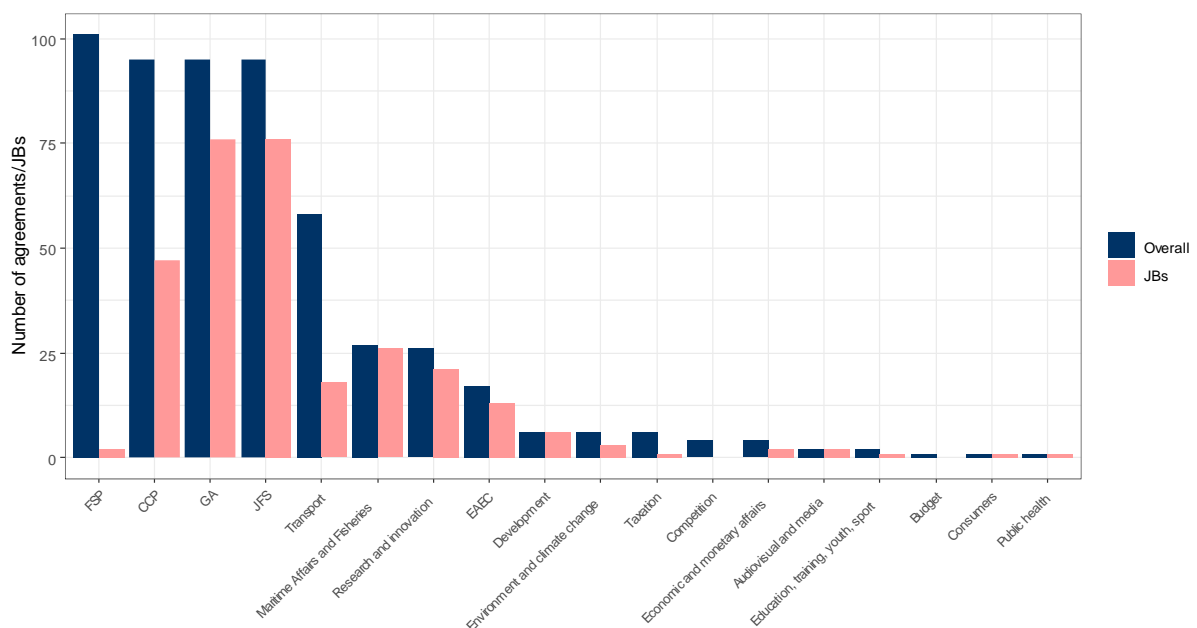
JBs with rules of procedure	75% (223)
JBs that can take decisions	57% (170)
JBs meeting annually or more	56% (166)
JBs mentioned in 3+ articles of int. agreement	48% (143)
JBs that can amend agreements	40% (118)
JBs that are empowered to create sub-bodies	38% (112)
JBs with a two-level structure (committee <i>and</i> council)	23% (68)
JBs meeting among ministers or ‘senior officials’	18% (52)

Using these indicators of joint body ‘strength’, we find that more than **half** of joint bodies have **between 1 to 3** of these indicators. The **other half** have **4+** indicators, which again supports the impression that joint bodies are key tools for the EU to achieve its foreign policy objectives, though not always through strong institutional mechanisms.

We find that the EU (and third country/-ies) create the strongest joint bodies in ‘broad’ agreements (e.g., association agreements). Still, we also find that, on average, the EU has stronger joint bodies with (geographically) **closer and bigger countries**. This raises questions of **fairness** in that smaller and farther-away countries may also benefit from stronger joint bodies with the EU.



We also find some interesting variation across **policy areas**. FSP agreements have practically never joint bodies. Broad (‘general’) agreements, JFS and fisheries agreements, by contrast, frequently do.



Abbreviations: FSP – Foreign and Security Policy; CCP – Common Commercial Policy; GA – General Agreement; JFS – Justice, Freedom and Security; EAEU – European Atomic Energy Community.

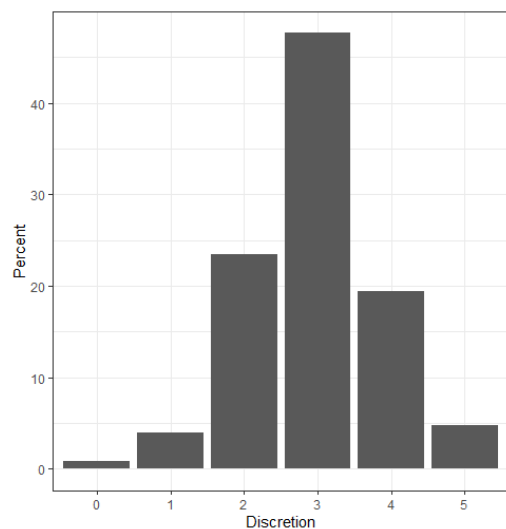
How much 'discretion' does the European Commission enjoy in joint bodies?

Another key concern connected to joint bodies is how they impact the **balance of power** among the EU institutions. This issue was, not least, raised by the German Federal Constitutional Court when ruling on the constitutionality of CETA. Overall, we also find that the **European Commission** is the **main beneficiary** of joint bodies. Still, based on 252 agreements concluded by the EU since 1992 for which we could find information concerning Commission discretion either in the agreements themselves or the EU ratification decisions associated with them, we show that the Council of the EU *tailors* Commission discretion to what EU Member States consider best in each international agreement.

How much discretion does the European Commission enjoy in joint bodies (JBs)?

The EU is represented by the Commission in the JB	77% (194)
Is the EU position, in at least one instance, adopted by a majority vote in the Council (giving the Commission a greater chance to shape the EU position itself)	38% (97)
EU Member States set up a 'special' committee (to monitor the Commission in JBs)	25% (64)
The EU Member States (or Council) are physically present during JB meetings	20% (51)
EU Member States control the Commission by setting up a joint <i>council</i> (where they reserve a stronger role for themselves)	15% (38)

Based on these indicators, we find that the Commission, overall, enjoys mostly **moderate discretion** in joint bodies. This seems to contradict some of the more exaggerated fears of the **Council (or EU Member States)** losing control of the implementation of international agreements. In fact, the Council can be viewed as also benefiting, on balance, from joint bodies. This dynamic comes at the expense of the **European Parliament**, which may confer considerable implementation powers on the Commission and Council when ratifying agreements. This could be viewed as raising questions about the democratic legitimacy of JBs. Still, it should be noted that also in traditional nation states the parliament would confer considerable powers to the government through joint bodies. Rather than giving the EP a stronger role in joint bodies, we would thus suggest to the Commission and Council paying particular attention to involving **civil society** in the implementation of international agreements.



Next steps

While this project ends, our interest in studying joint bodies continues unabated along three main lines. First, we plan to have a study on the involvement of **civil society** in international agreements of the EU. Second, we have a manuscript comparing joint bodies in **EU trade agreements** to trade agreements by other countries. While this manuscript is still under review, we can already share that clearly joint bodies are a global phenomenon and in no way unique to the EU. Third, we work on a manuscript on how joint bodies compare to other types of **international institutions**, such as international organizations including independent and supranational secretariats. If you are interested in receiving more information about joint bodies from us in the future, please do not hesitate to get in touch.

SOURCES

Dür, A. and Gastinger, M. (2022) 'Spinning a global web of EU external relations: How the EU establishes stronger joint bodies where they matter most', *Journal of European Public Policy*, openly available at: <https://www.tandfonline.com/doi/full/10.1080/13501763.2022.2079708>.

Gastinger, M. and Dür, A. (2021) 'Joint bodies in the European Union's international agreements: Delegating powers to the European Commission in EU external relations', *European Union Politics* 22(4): 611–630, openly available at: <https://journals.sagepub.com/doi/full/10.1177/14651165211027397>.

The data underlying this summary can be downloaded from the above two links as 'supplementary files'. The data is also available at: <https://dataverse.harvard.edu/dataverse/MarkusGastinger>

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