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The European Commission as informal policy entrepreneur

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ABSTRACT

This study is interested in the informal powers of the European Commission. The Commission might be able to manoeuvre as policy entrepreneur, and influence decision-making procedures. This study will build on Moravcsik's study of "informal policy entrepreneurship" (1999). An asymmetry in political resources between the Commission and the member states is considered to be fundamental in explaining the informal influence of the Commission. Policy expertise by the Commission is expected to be key in understanding these resource asymmetries. In case of a resource asymmetry, the Commission is able to persuade and manipulate the political resources, information and ideas. It will aim to exploit this situation by executing entrepreneurial tasks more effective than national governments. By doing so, it will translate its comparative advantage into influence. This can be detected in the distributional outcomes of decision-making procedures, in which the Commission seeks to alter the outcomes towards its own preferences. Through the use of the congruence analyse, divergent predictions and expectations will be formulated for the opposing integration theories of Neo-functionalism and Liberal Intergovernmentalism, and their subsequent implications towards policy entrepreneurship. Within the external dimension of energy security, the case of the Southern Gas Corridor will be considered as the crucial case study. This is based on the perimeters of legal and technical complexity. In this case, the 2016 legislative decision concerning Intergovernmental Agreements is the most relevant and recent legislation, and will be subjected to the causal model. Out of this, it has become clear the Commission has been able to influence the decision-making procedure regarding the IGAs legislation. However, in this case, resource asymmetries based on policy expertise are insignificant in explaining policy entrepreneurship. Through the occurrence of a window of opportunity, the Commission has been able execute the entrepreneurial tasks more effectively than national governments. As such, the Commission imposed its preferences on the multilateral outcomes, and successfully acted as an informal policy entrepreneur.

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LIST OF ABBREVIATIONS

CFSP	Common Foreign and Security Policy
Commission	European Commission
Council	European Council
DG	Directorate-General (Commission)
DV	Dependent Variable
E	Expectation
EP	European Parliament
EU	European Union
IGA	Intergovernmental Agreement
IV	Independent Variable
LI	Liberal Intergovernmentalism
LNG	Liquefied Natural Gas
MV	Moderating Variable
NGO	Non-Governmental Organisation
OLP	Ordinary Legislative Procedure
P	Prediction
PT	Process-Tracing
QMV	Qualified Majority Voting
SCP	South Caucasus Pipeline
SGC	Southern Gas Corridor
TANAP	Trans Anatolian Natural Gas Pipeline
TAP	Trans Adriatic Pipeline
TFEU	Treaty on the Functioning of the European Union

1. INTRODUCTION

Ever since studies concerning delegation of authority, and integration theories in the European Union (EU) have been published, the autonomy of the most powerful supranational institution, the European Commission (Commission), has been a popular matter of subject. Through the use of formal and informal instruments, the Commission is able to manoeuvre as “policy entrepreneur”: an effort to wield political power in the negotiating process and influence the decision-making procedure (Moravcsik, 1999; Copeland & James, 2014). This study is interested in the informal instruments the Commission may exploit. By doing so, the Commission may alter the outcomes of multilateral negotiations along two dimensions. First, it might increase the efficiency of negotiations, that is, to push the outcome closer to the Pareto-frontier of negotiations. The Commission overcomes inefficiencies in domestic and transnational coordination of political resources - information and ideas – that might have led to an underrepresentation of national interests in the negotiations (Moravcsik, 1999). Second, the Commission might seek to impose their own preferences on the outcome.

This research will build upon the conceptual model of “informal supranational entrepreneurship” as formulated by A. Moravcsik (1999). The underlying assumption will be that an asymmetry in political resources between the Commission and the member states is fundamental in explaining the informal influence of the Commission. In case there is an asymmetry, this situation is best described as a “bottleneck”, in which the Commission is able to persuade and manipulate the political resources. It will aim to exploit this bottleneck by executing entrepreneurial tasks, tasks necessary for efficient negotiation. The Commission will try to perform these tasks more effective than national governments, and translate its comparative advantage in influence. Consequently, distributional outcomes in decision-making procedures will alter along the two dimensions as discussed.

The resource asymmetry is considered to be crucial in the initiation of policy entrepreneurship and influencing the decision-making procedure. According to Moravcsik, “effective informal entrepreneurship requires asymmetrical control over informational and ideational resources unavailable to the principals of a negotiations – namely national governments – yet necessary for effective initiation, mediation, and mobilization” (1999: 272). Yet, one should first address how these resource asymmetries occur. Moravcsik suggests policy expertise of the Commission is likely to be a determinant factor in explaining this. Policy expertise means the Commission is in a better position to generate and manipulate technical and legal information than national governments can do. This will result in a bottleneck, which presents an opportunity for the Commission to exploit. However, in the

empirical observations concerning consecutive EU Treaties, Moravcsik does not find support for this assumption. Furthermore, he argues that, in general, claims about informal policy entrepreneurship are greatly exaggerated and redundant. Interestingly, ever since the landmark study of Moravcsik, empirical and theoretical controversies concerning his findings remain. Based on this academic controversy, this study expects policy expertise to be a significant factor in explaining the resource asymmetry. Therefore it is expected that policy entrepreneurship is present and observable.

Explaining policy entrepreneurship fits in the realm of studies concerning delegation of authority and integration in the EU. The theories of Liberal Intergovernmentalism (LI) and Neo-functionalism will provide substance to the concepts of policy entrepreneurship and influence. They diverge considerably on the implications of these concepts and which actor fulfils the role of policy entrepreneur. Neo-functionalism is the predominant theory in explaining policy entrepreneurship by the Commission. The theory assumes the Commission is an independent player looking for ways to extend the scope of its competences. Through various types of spillover in multilateral negotiations, supranational institutions will push towards further European integration. LI will act as the counterfactual theory. It argues member states determine the rules of the game, and the Commission does nothing more than reflecting the will of national governments. The occurrence, if at all, of informal policy entrepreneurship and influence on the decision-making procedure can be linked directly to one of these theories and their subsequent predictions.

In order to apply policy entrepreneurship to contemporary EU policies, the case study will be selected upon the criteria of complexity. This will favour the conditions for the policy entrepreneur to excel at. The external dimension of energy security provides a suitable policy area to conduct research on. A high level of legal and technical complexity characterizes the domain. The Southern Gas Corridor (SGC) will be chosen as a crucial case study. This pipeline project has been at the forefront of Brussels' external energy policies for years, and is a highly political project involving multiple actors. The project aims to bring gas from the Caspian Basin to Europe in order to diversify gas supplies and answer the growing demand of the European gas market. The objectives of the Commission in the external dimension often align with the objectives in the internal dimension, that is the internal market. The two dimensions are interlinked, and measures in one dimension often impact the other dimension as well. Both the Commission and the member states have high stakes at play. The Commission has a vested interest in protecting its internal energy market, fostering competition and diversifying its gas supplies. The SGC is the only project diverging from

Russian ties in the internal gas market. The member states aim to decrease their energy dependency and safeguard sustainable supplies of gas in the near future. External events such as the consecutive gas disruptions between Russia and Ukraine in 2009, and more recently the annexation of Crimea, have triggered the unease about dependency on Russian gas. More importantly, it has increased the pace of policies in Brussels considerably.

The external dimension of energy security is characterized by limited competences of the Commission. Although being subjected to the Ordinary Legislative Procedure (OLP), its competences are not as comprehensive as within the internal dimension. Due to the saliency and interconnectedness of the issues discussed, proposals by the Commission often aim to achieve a wider scope of competences in order to enlarge its mandate and achieve its objectives. At the same time, member states are cautious in providing the Commission more powers, as gas supplies are considered to be crucial state interests. Therefore this case is also cutting-edge with regards to the two theories, as the preferences for both actors are considered to be vital and are directly related to delegation of authority.

In order to fully understand policy entrepreneurship, one should study relevant legislation that includes diverging preferences of the Commission and national governments. These preferences are negotiated, and will result in distributional outcomes out of the decision-making procedure. The most relevant and recent legislation concerning the SGC will therefore be investigated. Bilateral gas agreements are key in understanding energy dependency, and impact the internal gas market significantly. They are closely related to gas infrastructure projects, and often aligned with the preferences of member states regarding these projects. The “Decision on Intergovernmental Agreements” (IGAs) of 2016 is a legislative proposal by the Commission acting upon these bilateral gas agreements. It aims to provide the Commission an ex-ante information mechanism in which it may scrutinize bilateral gas contracts between a member state and third country. This may be done prior to the signing of the contract. The SGC is the case study, the decision on IGAs the necessary legislation to be applied to the causal model. This study will determine whether the Commission has been successful in influencing the distributional outcomes of this legislation. Consequently, by taking the most relevant legislation under consideration, one can make more general assumptions concerning policy entrepreneurship and informal influence in the SGC. Based on this, the research question for this study has been formulated as follows:

Research Question: “How, if at all, does the European Commission act as informal policy entrepreneur in decision-making procedures?”

1.1 Academic Relevance

This study aims to develop a better understanding of the actors and processes that help to shape informal decision-making procedures in the EU. It aims to contribute towards the debate of European integration theories and delegation of authority between national governments and supranational institutions. Although lots have been written about the formal instruments of power of the Commission, the informal instruments of power are much less discussed. Yet, these instruments are key in understanding the powers of the Commission, as will become clearer in the academic debate. These powers are key in understanding multilateral negotiations and distributional outcomes in complex, contemporary policy issues. As energy security has quickly developed towards the forefront of Brussels' policies in recent years, this presents a unique opportunity to conduct research on. By focussing on the case of SGC, this study enters a rapidly developing policy domain that demands further research. Although the external energy dimension has been discussed extensively, ranging from incoherencies among member states to safeguarding energy supplies, the relationship of the Commission vis-à-vis national governments is lacking academic context. The SGC is the biggest infrastructural gas project for the coming decades, but has yet to be analysed due to its recent arrival. Moreover, this study will be the first to conduct research on the 2016 IGAs legislation, providing substance and analysis towards its implications.

This study specifically aims to contribute towards academic literature surrounding policy entrepreneurship by the Commission. This study will test whether the assumptions of Moravcsik still hold ever since his study was published in 1999. In general, studies by Moravcsik can be considered among the very finest in academic debates about European integration. His study towards policy entrepreneurship is a landmark study in this discipline, and considered to be crucial literature for any study concerning policy entrepreneurship and informal influence. Elaborating on Moravcsik provides a unique possibility to build on his causal chain, but also to question his observations and thoughts. The motivation to re-visit the study of Moravcsik is twofold.

First of all, ever since the publication of Moravcsik's study, there have been empirical and theoretical controversies concerning his findings. The academic literature will show this in more detail. Relevant for this study: many authors still argue policy expertise is key in explaining resource asymmetries, on which policy entrepreneurs can build. This study therefore wants to contribute towards the debate by taking both Moravcsik's logic as well as the controversies into consideration. One should also note that Moravcsik is not completely unbiased: he is considered to be a key figure in the development of the theory of Liberal

Intergovernmentalism. Moravcsik argues member states are still the main players in international cooperation and the EU, and use international organisations as tools to pursue their goals. His study is a clear reflection of this, as he argues claims about policy entrepreneurship by the Commission are greatly exaggerated. In general, authors are more optimistic about policy entrepreneurship in the EU and its occurrence. By selecting the opposing theory of Neo-functionalism next to Liberal Intergovernmentalism, this study not only questions the findings of Moravcsik, but also contributes towards the broader debate between the two integration theories.

Second, this study doubts whether the findings of Moravcsik are still relevant in the current time and age. Seventeen years have passed ever since his study. Although considered to be a fundamental contribution to the debate, almost none authors have applied the study of Moravcsik towards other settings. This study aims to apply the causal logic of Moravcsik towards a crucial policy domain. Instead of focussing on European Treaties, like Moravcsik did, this study will apply the causality towards legislation under the OLP. The external dimension of energy security is developing at a rapid pace, and as the academic literature will show, is prone to policy entrepreneurship due to its legal ambiguity and interconnectedness to the internal market. This policy area provides a crucial setting to apply Moravcsik's logic, and to re-visit his findings in contemporary European policies. Linked to this: the EU as a whole, and the Commission in particular, have evolved considerably over the years. Ever since 1999, many institutional and legislative developments have taken place. In general, one may argue the powers of the supranational institutions have increased on multiple areas over the years. This is important, as policy entrepreneurship is very much dependent on the context. This study therefore wishes to apply the concepts to contemporary policies, and take the actual configurations into account, in order to get a full grasp on policy entrepreneurship anno 2017.

1.2 Societal Relevance

Set against the current criticism towards the legitimacy of Brussels' supranational institutions vis-à-vis the member states, this study is highly relevant and will trigger further debate about delegation and authority to Brussels-based institutions. The Commission is often criticized for being an uncontrollable institution, leading to the often-stated democratic deficit and underrepresentation of national interests. An adequate study upon the negotiation process, decision-making procedure and legislative cycle will contribute towards the nuance in these debates. This is especially relevant in the domain of external energy policies, where competences overlap and the legal foundation is ambiguous. This study aims to contribute to

the perception of the powers of the Commission. It aims to trigger further debate based upon the findings. Coming from this, this study is highly relevant and contributes towards a broader public debate concerning legitimacy of the EU and its supranational institutions.

2. ACADEMIC LITERATURE REVIEW

This chapter will provide an overview of the academic literature concerning policy entrepreneurship by the Commission. This subject has been widely discussed in academic context and more than often applied to decision-making procedures in the EU. Especially the Commission has been discussed extensively, as it is one of the most remarkable supranational institutions ever created. At first, the concepts of policy entrepreneurship and informal influence will be given substance. Next, exemplifying cases will be presented along the formal and informal instruments of power. This will be followed by a closer look on the policy domain of energy security. Also the study of Moravcsik will be discussed in more detail. The final part of this chapter will consist of the empirical and theoretical controversies that surround Moravcsik's findings, as found in the academic literature.

2.1 Policy entrepreneurship and informal influence

Policy entrepreneurship is considered to be “the act of selling policies to decision-makers”, and is an effort to wield political power in order to promote policy change (Moravcsik, 1999; Young, 1999; Copeland & James, 2014: 4). Most of the participants in policy-making processes are comfortable working within the established institutional arrangements. They are “doing their bit to achieve improved outcomes for themselves and their supporters without upsetting the status quo. Policy entrepreneurs distinguish themselves through their desire to significantly change current ways of doing things in their area of interest” (Mintrom & Norman, 2009: 650). But what determines informal influence exactly? According to Moravcsik, the ability of a policy entrepreneur to influence decision-making procedures derives from the control over political resources, information and ideas (1999). Through the manipulation of these political resources, asymmetries occur, which are deemed as necessary for effective execution of the entrepreneurial tasks. According to Moravcsik, informal supranational entrepreneurship is “the exploitation by officials of asymmetrical control over scarce information or ideas to influence the outcomes of multilateral negotiations through [the entrepreneurial tasks of, red.] policy initiation, interstate mediation and social mobilization” (1999: 272). Several authors have presented conditions under which the policy entrepreneur is most likely to excel at, and influence is considered to be more likely to take place (Garrett & Weingast, 1993; Pollack, 1997; Moravcsik, 1998; Moravcsik, 1999; Riddervold & Rosen, 2016). Summarized, this is more likely to take place when:

1. There is a lack of national technical expertise, inhibiting governments from formulating or assessing technically or legally competent proposals
2. There is a weak legal foundation
3. Member states preferences are heterogeneous and the Council is divided
4. The transaction costs of negotiating are high
5. Private actors and interest groups support the Commission's proposals

2.2 Formal and informal instruments of influence

The powers of the Commission are often the matter of subject, and can be divided in formal and informal powers (Dyrhaug, 2013; Nugent & Rhinard, 2015). Both powers aim at influencing the decision-making procedure, but differ in their approach how to achieve this. Figure 1. presents a visual representation of both powers. Each instrument will be discussed next. As for the formal powers, this concerns the agenda-setting function of the Commission. This can also be considered as the 'hard law' side of the Commission, as it may initiate legislative proposals such as directives, regulations and decisions. They fall under the Community Method, which covers a broad range of policy domains in which the Commission is the sole initiator of new legislation. A second formal instrument is the legal threat. Schmidt has identified the use of judicial powers as a legal threat. By using competition law and infringement procedures, the Commission was able to pressure national governments and find the necessary means to alter domestic preferences (2000). In a similar study, Blauburger & Weiss discuss how the Commission was able to 'push and pull' member states towards a regulatory measure on defence procurement. Through using European Court of Justice case laws as pressure tool, the Commission was able to overcome the joint-decision trap and influence decision-making procedures (2012). According to Eberlein (2012) and Pollack & Slominski (2011), the Commission carefully reframed energy as market commodity, thereby exploiting its marginal role and mandate in the external policy dimension through its much bigger mandate in the internal dimension. With regards to the third formal power, Pollack notes the Commission does have some executive oversight powers, such as the supervision of implementation procedures, but these powers are often constrained by the system of comitology and therefore not considered to be relevant (1997).

With regards to the informal powers of influence, the first power is related to the "policy expertise and institutional persistence of the Commission, providing them with certain informational advantages vis-à-vis competing agenda setters and the Council in a setting of incomplete information" (Pollack, 1997: 102). As such, the Commission is able to determine

the agenda beyond their formal agenda-setting function. Through ‘soft law’, they may issue guidelines and frameworks for the issue at stake, due to their policy expertise. Publishing Green Papers, White Papers and other Communication indicating strategies and forecasts can do this. By doing so, they may frame the issue towards a certain proposal in which it might be able to expand its competences.

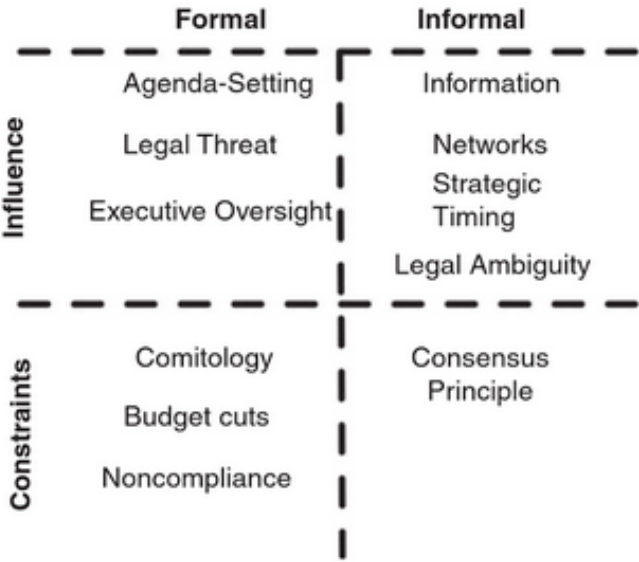


Figure 1: The formal and informal powers of the European Commission as visualized by Brutschin (2017)

In their study towards the Europe2020 reforms, Copeland & James argue that valuable information signals were exploited by the Commission in order to reframe the economic reform agenda, and redefine the problem at stake. This was followed by a revised policy solution. The authors thereby support the notion that the Commission acted as “purposeful opportunist” in response to the opening of a window of opportunity (2014: 14). Studies by Riddervold (2015), Riddervold & Chou (2015), and Riddervold & Rosen (2016) have also underlined that policy expertise is key in explaining the influence of the Commission in the area of Common Foreign and Security Policy (CFSP). This is a quite remarkable observation, since the Commission has no formal competences in this highly salient policy field, and decision-making is based on unanimity. In their studies they find the Commission was able to link CFSP policies towards cross-sectorial policy areas where it does hold authority, thereby creating a demand for the services of the Commission.

The second informal instruments relates to policy networks (Pollack, 1997). By involving the expertise of interests groups in the policy-making process, the Commission may

benefit from their expertise. This may ultimately influence the negotiation process. Eberlein (2012) and Braun (2009) have shown how transnational networks have been crucial in explaining the development of energy security towards the forefront of European policy-making. Transnational institution building has been a way to work around the lack of supranational power in energy security. They also argue it has also provided the Commission more expertise. As a result, these new 'building blocks of governance' have strategically framed policies towards supranational solutions. According to Eberlein, these networks have been creatures of the Commission, and often channel the input of the Commission (2012).

The next instrument of legal ambiguity is more context-based (Copeland & James, 2014). Ambiguity in European legislation may lead to faster agreement, and more space to manoeuvre for the Commission. According to Eberlein, the Commission acted along a "veil of vagueness" in energy security. Member states agreed on general policies, but the complex details eventually enforced further integration (2012: 166). According to Mayer, one can often see the Commission as a "process manager that provides and applies accumulated knowledge, occupies a strategic location where it supervises and administers complex arrangements of increasingly coupled issue areas" (2008: 253). Surrounding this ambiguity, the Commission is able to establish focal points through its wealth of information and expertise. In this way it may utilize informal agenda setting, especially when the legal basis is weak (Mayer, 2008).

Finally, informal influence is very much dependent on the strategic timing of the policy entrepreneur. Studies by Mayer (2008) Braun (2009) Copeland & James (2012) and Maltby (2013) find the occurrence of a window of opportunity is key in understanding the influence of the Commission (Kingdon, 1984). Due to consecutive external events, the Commission was able to contribute to a shift of political norms in energy policies, and frame issues towards a wider societal concern and subsequent EU-level solution, thereby increasing its role to considerable extent (Eberlein, 2012; Maltby, 2013).

2.3 Energy Security

As has become clear in the literature surrounding the informal instruments of the Commission, the policy domain of energy security is a recurring subject. Ever since energy security became a focal point in European policy-making, several authors have investigated the role of the Commission in this field. Both the formal and informal instruments are present over here. Not surprisingly, energy security is often categorized as "existing on a continuum, going from various degrees of supranational integration, over various degrees of intergovernmental integration, to purely intergovernmental cooperation" (Keukeleire and

MacNaughtan 2008: 31). The Commission has played an active role in expanding its modest mandate and to take advantage of the legal ambiguity that is present. It has expanded its powers to a degree “originally not envisaged by member states” (Mayer, 2008: 253; Wettestad, Eikeland & Nilsson, 2012). This is exemplified by the 2011 dawn raid on Gazprom’s subsidiaries and partners in Eastern Europe, due to the suspicion of breaches of EU Treaties and hindering liberalization of the internal gas market (Goldthau & Sitter, 2015). The Commission could use competition law and infringement procedures as leverage tool in breaking stalemates. More interesting and relevant for this study, it could create crucial arena linkages to the external dimension of energy security, and so exploit its competences (Eberlein, 2012; Goldthau & Sitter, 2015). In light of the competency problems and overlap of mandates, one can understand why the Commission ‘relies on proposing energy legislation if it can be linked in some way to the internal market’ (Braun, 2009). Therefore activism by the Commission in the external dimension cannot be seen in separation from the internal dimension. In order to make the internal market more attractive, and to foster competition, it is heavily involved in the construction of new pipelines. Especially in these that are interesting for achieving the goals in the internal market (Goldthau & Sitter, 2015).

As member states interests are highly divided and heterogeneous in the Council, this has allowed the Commission to shape the agenda and position itself as a “strategic node” (Braun, 2009: 431). According to Pollack, such a situation may enable the Commission to exploit cleavages among national governments and alter its mandate, or spillover its competences and advance its competences in the emerging external energy dimension (1997). According to Mayer, the Commission has been able to manoeuvre between intergovernmental bargains and exploit its own institutional position (2008). Furthermore, by issuing a continuous output of soft law, the Commission has been able to provide recommendations, opinions and studies pushing for a greater role for the Commission. This was enforced by recent external events among the likes of gas disruptions and interstate conflicts. Member states often decline the Commission’s attempts in widening its formal authorities, as strong national interests characterize the external dimension of energy. However, due to the heterogeneous preferences of the member states and the rapid institutionalization of energy policy, this subsequently put limits on the intergovernmental framework and the provision of policy responses towards the changing landscape. According to Mayer:

“Taken together, the institutional outcome can be explained with the external challenges that convinced member states that a more consistent and unitary external

energy approach within the EU framework was indispensable to face producers, together with the Commission's accumulated knowledge and resources, including its ability to seize on these challenges to argue for its own responsibilities to be extended and given a critical role within this new policy field" (2008: 271).

2.4 The causal model of Moravcsik

Moravcsik has formulated a conceptual model for detecting policy entrepreneurship along the factors as discussed, visualized in Figure 2. (1998; 1999). At the forefront is the assumption that influence of the policy entrepreneur derives from the control over political resources – information and ideas. This resource asymmetry is considered to be the independent variable in Moravcsik's study. If there occurs an asymmetry in the gathering of political resources, bottlenecks may occur, in which the Commission is able to persuade and manipulate the resources. Coming out of this, the Commission will try to execute the entrepreneurial tasks more effectively than the national governments. It will aim to do so in order to translate its comparative advantage in influence. The entrepreneurial tasks are considered to be intervening variables. The entrepreneurial tasks consist of: policy initiation, interstate mediation and social mobilization. Policy initiation is also dubbed as informal agenda-setting, "in which the entrepreneur launches a discussion by highlighting problems, advancing workable proposals, underscoring potential material benefits, or linking the outcome to symbolic values" (Moravcsik, 1998: 56; 1999: 272). Interstate mediation is the intervention of the entrepreneur in interstate negotiations to develop compromise proposals. The third function, mobilization of domestic social support, such as domestic politicians, interest groups or the public opinion, aims to achieve domestic support for an agreement – often through "selective disseminations of ideas and information" (Moravcsik, 1998: 56; 1999). These entrepreneurial tasks overlap with the informal instruments as discussed by Brutschin, in which the instruments of information and networks relate to the three entrepreneurial tasks, whereas the instruments of strategic timing and legal ambiguity relate to the context of the issue, hence moderating the success of influence.

The context very much defines the feasibility of the window of opportunity to open up, which is another intervening variable. Within a window of opportunity, policy change is most likely and provides the best opportunity for the policy entrepreneur to influence the decision-making procedure. The multilateral outcomes resulting from the decision-making procedure is considered to be the dependent variable. The Commission may alter the outcomes of multilateral negotiations along two dimensions. First, it might increase the

efficiency of negotiations, that is, to push the outcome closer to the Pareto frontier of negotiations. The Commission overcomes inefficiencies in domestic and transnational coordination of political resources - information and ideas – that might have led to an underrepresentation of national interests in the negotiations (Moravcsik, 1999). Second, the Commission might seek to impose their own preferences on the outcome. If the policy entrepreneur can generate and manipulate political resources more efficiently than national governments, but cannot manipulate its nature, this might result in an increased efficiency of multilateral agreements. If the entrepreneur can disseminate information selectively, this may lead to altering the distributive outcomes towards its own interests (Moravcsik, 1998).

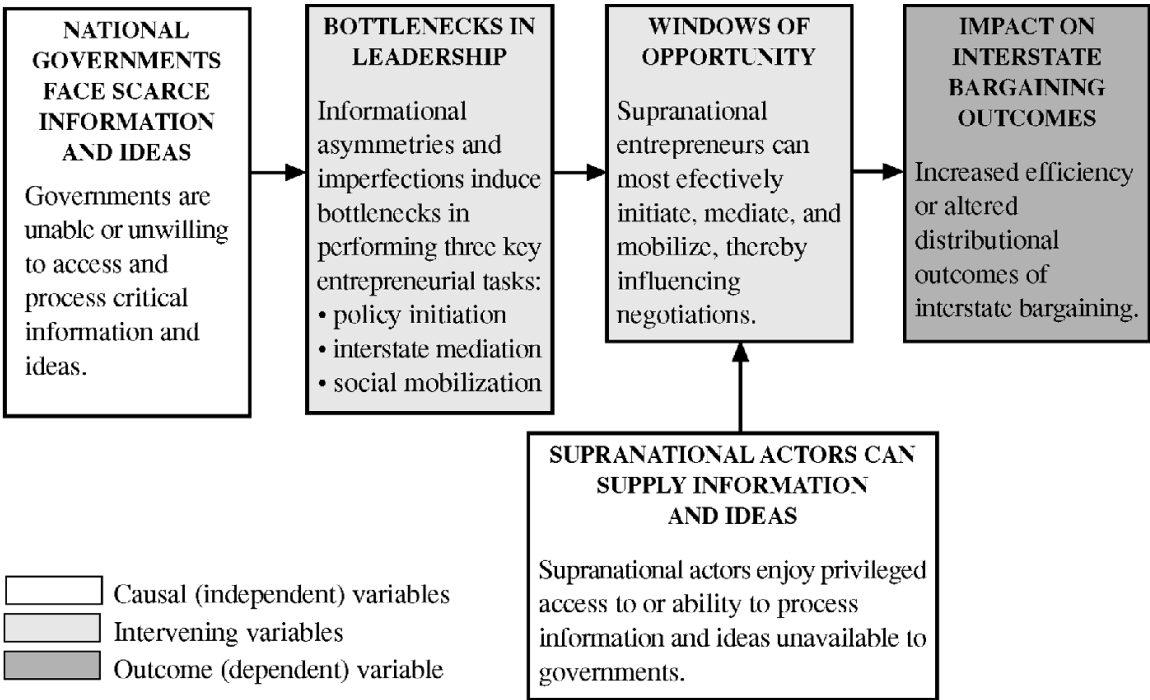


Figure 2: The causal process of informal supranational entrepreneurship according to Moravcsik (1999)

According to Moravcsik, explaining supranational entrepreneurship must be done through investigating the conditions under which the Commission enjoys a comparative advantage over member states. Assuming an asymmetry in political resources between the Commission and the member states is the explanatory factor in favouring supranational actors in the distribution of resources, how exactly does such an asymmetry occur?

In his study, Moravcsik claims four factors could contribute to the resource asymmetry between the Commission and the member states. First, he argues this could occur due to a scarcity of creativity, vision and skill. Second, this could occur due to a scarcity of trust and reputation. Third, this could due to a scarcity of legitimacy. Fourth, this could occur due to a

scarcity of technical information and expertise. In the fourth factor, the “triumph of technocracy”, Moravcsik states that technical or legal policy expertise may contain explanatory leverage towards the resource asymmetry (1999: 32). This rests on the generation and manipulation of scarce technical or legal policy expertise: “the predictions of bargaining are notoriously sensitive to shifting assumptions about the information, strategies and tactics available to actors, as well as their preferences” (Moravcsik, 1998: 52). Constant involvement in everyday matters affords supranational officials greater technical knowledge concerning specific proposals and greater skill at “inventing institutional options” (Moravcsik, 1999: 275). In his empirical study, Moravcsik does not find support for the hypothesis of the triumph of technocracy. He questions whether there exists an imperfect balance in information between European institutions and member states, and argues member states are capable and rational to gain and exploit this information themselves. In his cases, he does not find support for technical expertise leading to a resource asymmetry and although the Commission did perform tasks of initiation, mediation and mobilization, this didn’t lead to altered distributional outcomes, or even increased efficiency. Moravcsik doubts why supranational actors may enjoy a comparative advantage over national governments in the generation of expertise. The Commission employs much less professionals than national governments and rarely possess technical specialists. In conclusion, Moravcsik found out that policy expertise is not a condition on which informal policy entrepreneurship occurs.

2.5 Academic controversies concerning Moravcsik’s study

Ever since the landmark study of Moravcsik has been published, but also before, many authors have argued otherwise about policy expertise by the Commission. According to Kassim & Menon, the Commission has gained considerable technical and legal expertise, and enjoys access to information “that would be difficult for even the best organized and most motivated national administrations to gather” (2003: 128). According to Pollack, policy expertise is much dependent on the issue at stake: “the autonomy of the agent depends crucially on the efficacy and credibility of control mechanisms. These will vary over institution and over issue area – leading to various patterns of supranational autonomy (1997: 101). This is closely related to the principal-agent theory and the control mechanisms to keep the agent in its mandate (Jensen & Meckling, 1976; Tallberg, 2002; Kassim & Menon, 2003).

More radically, Kingdon states that preferences are “loosely defined, information is incomplete and actor participation varies across issue-area and over time (1984: 188). According to Mintrom & Norman, this role of information becomes more important in cases

where ‘issues are complex and their efforts on citizens seem remote’ (2009: 661). Laffan argues “the Commission is in a position to take advantage of opportunities as they present themselves in the policy process to enhance policy integration and collective solutions to policy problems” (1997: 424). Mayer argues “imperfect information among policymakers provides supranational actors an opportunity to exert independent influence even in the absence of formal competences” (2008: 260). In addition to this, Copeland & James argue that new sources of information can be shared among many actors, but skilful policy entrepreneurs are able to exploit this information in order to “reduce institutional ambiguity [...] by centralizing responsibility and seizing control of the policy agenda”. Related to Kingdon, they argue that the opening of windows of opportunity can “facilitate bureaucratic power grabs by those best positioned to interpret and respond to shifting signals about the wider policy environment” (Copeland & James, 2014: 14). The influence of the Commission as informal policy entrepreneur seems to depend on “member state uncertainty regarding the problems and policies confronting them, and on the Commission’s acuity in identifying problems and policies that can rally the necessary consensus among member states in search of solutions to their problems” (Pollack, 1997: 128; Mintrom & Norman, 2009).

In conclusion, the resource asymmetry is considered to be crucial in the initiation of policy entrepreneurship and influencing the decision-making procedure. Moravcsik has presented four factors that could contribute to such asymmetry. In one of these, the “triumph of technocracy”, it has been assumed that policy expertise by the Commission is an explanatory factor. After obtaining his empirical observations, Moravcsik has argued policy expertise is an insignificant factor. Meanwhile, multiple other authors argue to various extents that policy expertise is still relevant and much dependent on the issue at stake. This study will build upon the causal model and implications by Moravcsik, arguing policy expertise is a determining factor in explaining the resource asymmetry. But first, the concepts of policy entrepreneurship will be provided theoretical context.

3. THEORETICAL FRAMEWORK

This chapter will discuss the two classic theories on European integration and their connection and implications regarding policy entrepreneurship. Within EU studies, the theories of Liberal Intergovernmentalism (LI) and Neo-functionalism provide substance on issues related to the delegation of authority and the current state of European integration. The theories diverge significantly on the occurrence of policy entrepreneurship. Basically, the theories differ in the relative importance of various rational actors, mainly national governments opposing supranational actors, and “on the presence or absence of a self-sustaining integration process” (Pollack, 2006: 35). In his study, Moravcsik stresses the need for future research to include the counterfactual theory as well. Other studies “fail to ask whether other interested parties, above all the most interested national governments, could or did perform the same functions, thus rendering supranational entrepreneurship redundant or futile” (1999: 273). As the theoretical predictions of both theories will be presented, the occurrence, if at all, of informal policy entrepreneurship can be linked directly to one of these theories and their respective explanatory leverage. Besides the discussion of the integration theories, this chapter will also elaborate on the windows of opportunity, relevant game theories and the occurrence of informal influence.

3.1 Integration theories

Neo-functionalism assumes supranational actors such as the Commission are capable of calculating their comparative advantage and act accordingly. Integration is explained through entrepreneurship of the supranational actor, who engages states to pool their sovereignty. Through various types of “spillover”, the attention is focussed at the supranational level to deal with emerging policies. Through spillover, supranational actors will try to pursue their interests and gain more power (Haas, 1958; Pollack, 2006). Spillover can be functional, as cooperation in one area demands cooperation in other areas, or political, in which solutions are sought at the supranational level, hence stimulating further integration. Spillover can also be cultivated, in which the Commission actively pursues a greater role, often by cooperating with aligned interest groups. As for LI, this is a state-centric theory. It assumes “states achieve their goals through intergovernmental negotiating and bargaining, rather than through a centralized authority making and enforcing political decisions” (Moravcsik & Schimmelfennig, 2009: 68). National governments develop preferences, and then bargain to substantive agreements. These preferences vary across time and are issue-specific. National governments use supranational institutions to secure the outcomes and to mitigate future

uncertainty. The outcome of the negotiations depends on the relative bargaining power of the member states. For LI, supranational institutions are of limited importance. They are solely used to support policy coordination (Moravcsik & Schimmelfennig, 2009). Consequently, the theories differ in their approach towards European integration. Neo-functionalism assumes supranational institutions play a considerable role of importance in European integration, and are the main drivers in expanding its competences. This is due its growing autonomy and commitment towards further integration (Tallberg, 2002). LI suggests that integration can best be understood as:

“A series of rational choices [...] responding to constraints and opportunities stemming from the economic interests and powerful domestic constituents, the relative power of states stemming from asymmetrical interdependence, and the role of institutions in bolstering the credibility of interstate commitments” (Moravcsik, 1998: 18).

3.2 Position of theories towards policy entrepreneurship

The theories diverge on their position towards the occurrence of policy entrepreneurship. Neo-functionalism assumes on-going cooperation ‘empowers supranational officials to act as informal policy entrepreneurs in other areas’ (Moravcsik, 2005: 352). The theory argues that supranational actors play a decisive role in providing entrepreneurship in order to overcome inefficient bargaining and to influence distributional outcomes. Set against issues that contain a high level of complexity, the Commission is necessary to assure agreement. Thereby it is “also empowers by those agreements that emerge, driving integration further through a process of political spillover” (Moravcsik, 1998: 55-57). On the contrary, LI displays the arena of interstate negotiating as one in which the supply of political resources is plentiful. The actor with the greatest interest will act as entrepreneur, and will execute the entrepreneurial tasks. The theory argues the efficiency of multilateral outcomes and the distribution of gains is not dependent on resource asymmetries, but on the demand for cooperation. According to LI, supranational institutions rarely possess political resources unavailable to member states. The theories are contradictory on the role of the Commission in relation to the member states, and whether a resource asymmetry is likely to occur. LI sees the Commission as an agent and facilitator of the member states in implementing the decision they take, “but not itself acting in a manner that does anything much more than reflecting and applying the will of the national governments as expressed via the Council and European Council” (Moravcsik & Schimmelfennig, 2009; Nugent & Rhinard, 2015: 5). On the contrary,

Neo-functionalism assumes national governments are often ‘guided and led by what the Commission does, which is relatively independent’ (Nugent & Rhinard, 2015: 6).

In conclusion, at the core of policy entrepreneurship is the question why supranational actors enjoy a comparative advantage over national governments in the generation and manipulation of political resources. According to Moravcsik, many studies reject to test the counterfactual, resulting in biased and futile studies (1998; 1999). This overview has shown the two selected theories diverge on the occurrence of policy entrepreneurship. The occurrence, if at all, and the implications on decision-making procedures can be linked directly to the theories.

3.3 Windows of opportunity

Policy entrepreneurship is also closely related to the school of public policy, and especially the study of Kingdon towards the occurrence of windows of opportunity (1984). Such a window is a constellation that makes policy change more probable, and an ideal opportunity to influence multilateral outcomes. According to Kingdon, successful policy entrepreneurship derives from the coupling of the policy, political and problem streams. The problem stream consists of the conditions that policymakers interpret as problems (Maltby, 2013). The policy stream consists of the solutions as developed by the Commission. The politics stream is the political developments that affect the overall process. According to Kingdon, ‘an issue would develop on the policy agenda when there is a coupling of the three streams, which could occur during the opening of a window of opportunity such as that provided by a (perceived) crisis or a prominent event highlighting the (emergence of) a political problem (1984; Maltby, 2013). In conclusion, the opening of a window of opportunity is very much driven from the context of the issue, and dependent on conditions of the policy climate and competences of the policy entrepreneur (Kingdon, 1984; Laffan, 1997; Mintrom & Norman, 2009; Brutschin, 2013; Copeland & James, 2014).

3.4 Pareto-efficiency, Coase theorem & transaction costs

The game theories of Coase and Pareto will be applied for this study, and are interlinked. The Coase theorem makes assumptions about transaction costs. Transaction costs are understood as the costs to negotiate, or to make a trade happening. Transaction costs can create barriers to effective cooperation among the actors (Keohane, 1983). Due to externalities, these costs may be high or low. They tend to be higher in complex issues, exemplified by multiple actors with heterogeneous preferences. According to Moravcsik, there are determined by the “number of actors, information-processing capabilities of the actors, heterogeneity of actors, informal

norms, and repeated play”, as well as available resources (Moravcsik, 1999: 300). Simply put, reaching an agreement under high transaction costs takes more time, effort, and resources. If actors perceive the transaction costs as too high relative to their gains in the issue at stake, this may hamper the efficiency of negotiations. The Coase theorem assumes when transaction costs are low, bargaining outcomes will reflect a Pareto-optimum situation. A situation of Pareto-efficiency is achieved when political resources are allocated in the most efficient manner, and all participating actors are maximizing their utility. There is no other situation that would make the collective better off. As such, there are no considerable gains left at the table: all actors agree on the outcome as negotiated. When the situation is not Pareto-efficient, due to high transaction costs relative to the gains, this provides room for the policy entrepreneur to manoeuvre and perform the entrepreneurial tasks. According to Moravcsik, only if the transaction costs of negotiating efficiently are “so high as to preclude interstate bargaining – does a window of opportunity exist for supranational entrepreneurs” (1999: 273). The policy entrepreneur then aims to alter the distributional outcome along the two dimensions as discussed.

3.5 Conceptual models of causality

Figure 3. and Figure 4. present the causal model for each of the two theories for this study. These models build upon the causal logic that was presented by Moravcsik in Figure 2. The conceptual models reflect the theoretical implications, and are defined along three dimensions: the distribution of information, the negotiation process and the decision-making procedure. These dimensions reflect the respective independent variable (IV), moderating variable (MV) and dependent variable (DV). For each dimension, contradictory predictions will be formulated in Chapter 6. At the core of the expected causality is the assumption that the distribution of information among national governments and supranational actors affects the decision-making procedure. This relationship is moderated by the variable of the negotiating process, which determines the bottleneck and performance of entrepreneurial tasks. Ultimately, this determines the strength of the relationship between IV and DV.

With regards to the IV, the two theories diverge on the distribution of political resources between national governments and the Commission. The distribution of information reflects the total share of political resources between the two actors for a given issue. It could either be evenly distributed among the actors, or unevenly, in which a resource asymmetry occurs. Neo-functionalism expects the Commission to have privileged access to information and ideas, resulting in more policy expertise (Moravcsik, 1998). Policy expertise means the

Commission is in a better position to generate and manipulate technical and legal information than national governments can do (Moravcsik, 1999). This especially takes place when the transaction costs are relatively high compared to the relative gains of agreement. Consequently, due to these high transaction costs, national governments have fewer incentives to obtain and process political resources, resulting in possible sub-optimal negotiations. As a result, this policy expertise will lead to a resource asymmetry, in which the distribution of information is uneven. LI expects transaction costs to be low and the distribution of information to be complete and evenly shared (Moravcsik, 1999). The Commission has no privileged position. The Commission is solely used as mechanism for coordination, and does not act in a manner other than reflecting the will of national governments (Nugent & Rhinard, 2015). Multilateral outcomes are driven on the demand for cooperation, not on the presence of a resource asymmetry, as political resources are evenly distributed (Moravcsik & Schimmelfennig, 2009).

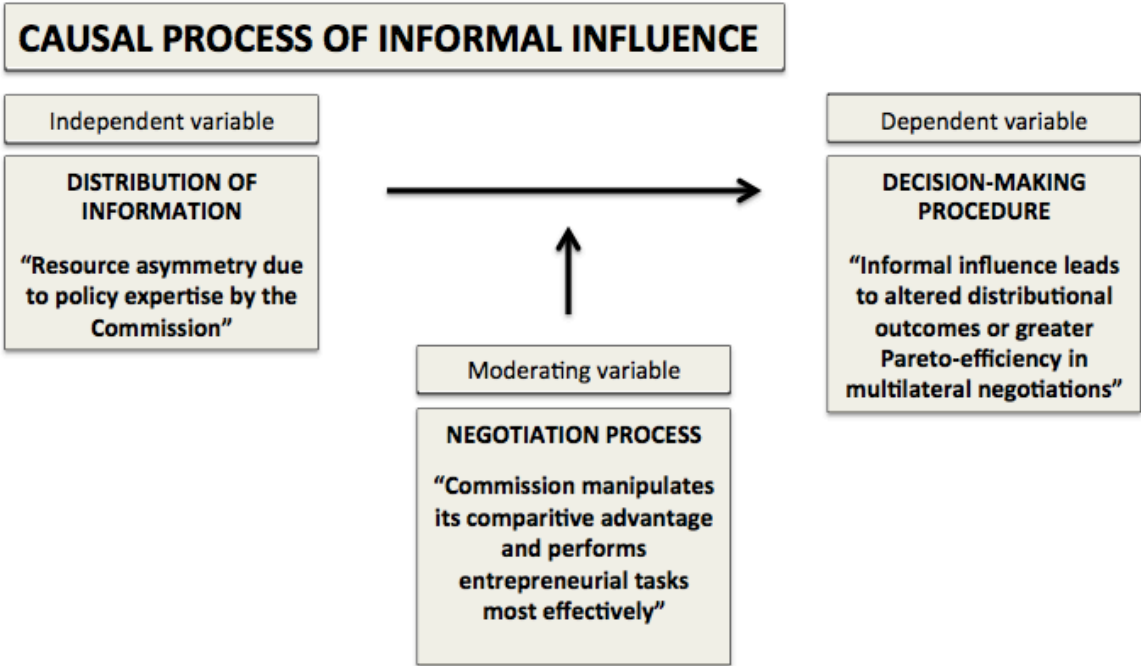


Figure 3: Conceptual model for this study based on the theory of Neo-functionalism

In case there is a resource asymmetry, or bottleneck, the Commission is able to manipulate the political resources. It will aim to exploit this bottleneck by executing entrepreneurial tasks, which are deemed as necessary for efficient negotiations. This will occur in the negotiation process (MV). According to Neo-functionalism, the Commission will perform these tasks more effective than national governments, due to their comparative advantage

over political resources. The clearest way to detect this would be renewed national positions or changed preferences on the issue at stake, as a result of the Commission’s interference in the negotiation process. This is more likely to happen within a window of opportunity, which presents the most ideal opportunity to influence the decision-making procedure (Moravcsik, 1999). Following LI, there is not such a thing as a bottleneck in the first place, as political resources are evenly distributed. This entails that, naturally, national governments will perform the entrepreneurial tasks the most effective (Moravcsik, 1999). This also means their positions on the issue at stake will remain stable and fixed during negotiations, and are not prone to influence by the Commission.

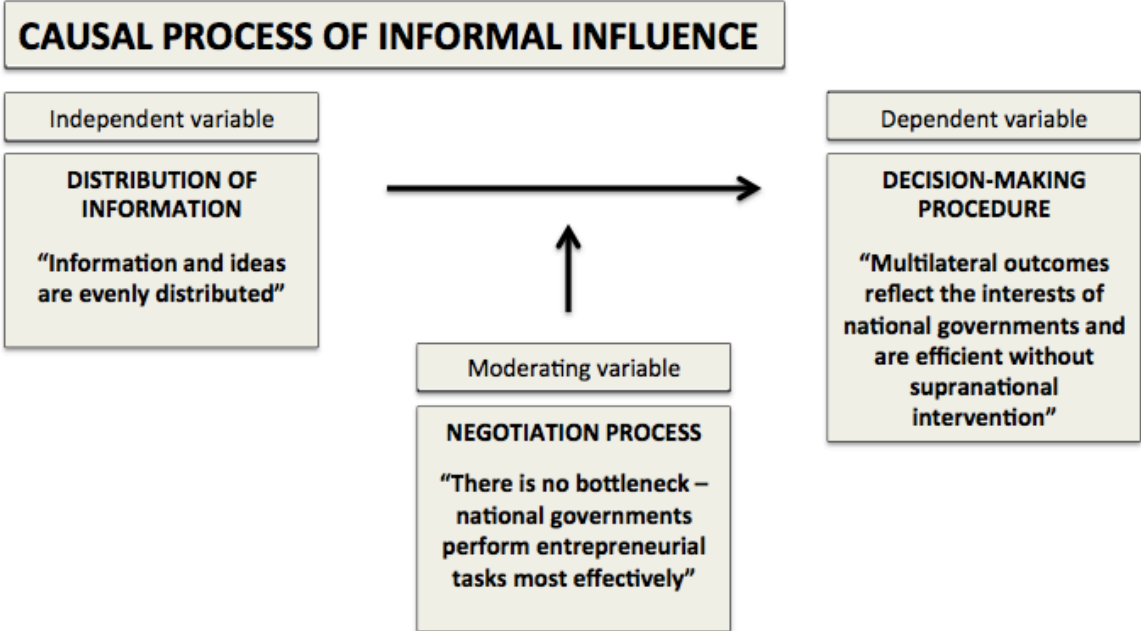


Figure 4: Conceptual model for this study based on the theory of Liberal Intergovernmentalism

Informal policy entrepreneurship will be determined through the multilateral outcomes out of the decision-making procedure (DV). According to Neo-functionalism, the Commission will be able to exploit their comparative advantage through the effective execution of the entrepreneurial tasks. As such, they may influence the multilateral outcomes along the two dimensions of increased Pareto-efficiency or an alteration of distributional outcomes towards the preferences of the Commission. As for LI, it is expected that supranational intervention is not necessary to achieve Pareto-efficiency in the decision-making procedure. Consequently, multilateral outcomes reflect the preferences of the national governments, as member states perform the entrepreneurial tasks the most effective, and as there is no uneven distribution of

resources. In conclusion, the two theories are formulated in contradictory dimensions and variables. The distribution of information affects the decision-making procedure, but the negotiation process determines their causal relation.

3.6 The occurrence of influence: complexity

A number of conditions have already been presented under which the policy entrepreneur is most likely to excel at, and influence is considered to be more likely. However, one should also focus at the conditions under which influence is likely to occur, besides the conditions on which it may excel. One should determine the conditions under which the Commission is able to generate or manipulate its policy expertise, as to arrive at the resource asymmetry and to detect a bottleneck. According to Moravcsik, influence is the strongest to occur when technically and legally complex issues are at stake: “only if the complexity and therefore the transaction costs of negotiating efficiently are so high as to preclude efficient interstate bargaining – does a window of opportunity exist for supranational entrepreneurs.” He adds: “the analysis of supranational policy entrepreneurship [...] must begin by assuming that knowledge and policy ideas are not available at low cost” (1999: 273). Hereby Moravcsik makes a connection to the Coase theorem, referring to the implications of transaction costs (1998).

As such, Moravcsik determines policy entrepreneurship to be more likely to detect in issues that are complex, both technically and legally. From the legal aspect, complexity occurs when competences between the national governments and supranational actor overlap, and the mandates of both actors are ambiguously defined in Treaties. Technical complexity occurs when issues are cross-sectorial in nature, when there is a dense knowledge-intensity, and when there is a large presence of interest groups providing expertise and substance to the issue (Keohane, 1984; Ackrill & Kay, 2010). Keohane elaborates on cross-sectorial issues by introducing issue density. This entails that the interdependency of issues makes agreement technically complex. When this density is high, “substantive objectives may well impinge on another [...] complex linkages will develop among substantive issues” (1984: 339-340). Complexity therefore has a direct effect on transaction costs and the relative gains, as complex issues naturally result in higher transaction costs.

Complex issues are considered to be learning processes, in which policy expertise can provide focus points and guidance (Haas, 1992). When political resources are not available at low cost, “supranational policy entrepreneurs and communities of experts gain leverage through the manipulation of knowledge” (Radaelli, 1999: 10). Delegation of power to

supranational actors is considered to be more likely when uncertainty prevails, “be it about external challenges or when venturing into new policy fields, and when member states lack sufficient resources to address the problems at hand” (Mayer, 2008: 270). Actors who can offer interpretation in this are key in providing focus points for negotiations, in order to understand the complexities. The complexity of an issue is therefore at the core of informal policy entrepreneurship and for this study considered to be the most-likely condition on which successful influence builds upon. Eventually, this complexity will put the causal chain in motion. The case study for this research will be selected upon the criteria of complexity, supporting the most-likely case approach. The research design will elaborate more on this approach.

4. RESEARCH DESIGN

This study aims to rely upon a sound research design, as to connect empirical data to the aims of the study. This chapter will elaborate on the use of the congruence analysis, the collection of data, how to secure reliability and validity. Next, it will provide further details about the crucial case selection.

4.1 Congruence Analysis

This study will be based on the congruence analysis. The main goal of the congruence analysis is to make a contribution to a “scientific discourse, which is characterized by the implicit or explicit rivalry of divergent paradigms and theories” (Blatter & Haverland, 2012: 154). A high congruence between theoretical implications and empirical observations in comparison to another theory is used to underline the explanatory leverage of the theories towards informal policy entrepreneurship. Consequently, this will also be used to test the theories towards each other. In a “three-cornered fight”, the theories will compete on the basis of empirical observations (Blatter & Haverland, 2012: 146). In case one of the theories contains a higher degree of congruence between its implications and observations, the theory has stronger explanatory leverage. “It assumes that divergent theories lead to contradictory implications in the empirical world” (Blatter & Haverland, 2012: 144-145).

Within the congruence analysis, two methodological elements are formulated in order to control against epistemological relativism. First, the vertical element of control notes that specific predictions have to be formulated from the abstract theories. This is followed by a comparison between the theoretical predictions based on the empirical observations. Second, the horizontal element makes a comparison between the theories through deduced expectations, observing which theory has higher congruence (Blatter & Haverland, 2012: 164-165). The predictions and expectations can be convergent, contradictory or complementary. In this study, they will be presented as contradictory. Based on the causal models as presented, the predictions and expectations will be formulated in Chapter 6.

For this study a process-tracing approach (PT) has been selected as research method in order to detect causality between the variables. PT can contribute to the debates among competing theories and paradigms by using causation in time and space as a basis for causal inferences (Blatter & Haverland, 2012). This method goes hand-in-hand with the congruence analysis, as it ‘reveals and evaluates the effectiveness of theoretically specified mechanisms, [stating, red.] which combination of social mechanisms make X effectively cause Y’ (Blatter & Haverland, 2012: 88).

4.2 Data collection

This research will predominantly use official documentation as the key source of empirical observations. The data that will be obtained in the empirical observations includes Commission publications (Green Papers, White Papers, Communications, Proposals for legislation, Strategies, Press releases), and Council publications (Conclusions, Working Reports). Furthermore, this study will consult documents provided by international organisations, relevant interest groups and media outlets such as Euractiv and EUobserver. National authorities will also be consulted through position papers. This type of data collection can be associated with both strengths and weaknesses. According to Yin, official documentation is a strong type of source, as it can be reviewed repeatedly, and contains details and references on the events (2003). Multiple sources can be used in order to overcome selection bias and to pursue objective research. However, official documentation can contain reporting bias as well. This is especially relevant in the case of policy entrepreneurship and the issuing of reports as possible instrument of influence. Therefore one should always take in mind what the interests of the publisher are, and try to consult as many sources as possible through triangulation in order to determine the empirical observations as objective as possible.

This study will also look into EU legislation. One should note that EU legislation could be summarized in three different forms, each with different implications. At first, there are directives. This type of legislation is binding, but it is left to the member state how to incorporate these directives into national law. Second, there are regulations. These are binding in their entirety, and directly applicable in all member states. Third, there are decisions. This type of legislation is binding and directly applicable as well, but its scope is individual rather than general, and aimed at specific actor(s) (Nugent & Rhinard, 2015). For this study, the decision on Intergovernmental Agreement (2016/0031(COD)) will be taken under consideration.

4.3 Validity and reliability

This study aims to safeguard the validity and reliability of the research. The validity refers to the extent to which the case corresponds to the concepts intended to reflect. In here, validity can be divided in internal and external components. The internal component refers to the accurate measurements of theoretical concepts. The external component refers to the generalizability of the empirical results (Babb et al., 2011). In general, case studies yield a high level of internal validity and low level of external validity. By focussing on one single

case, this allows for more complex and thorough conceptualization of the theories, thereby increasing its accuracy. However, generalizing the results is often more difficult due to the specific treatment of one case. As such, this may lead to a selection bias in which a case may respond to the independent variable and detect a causal relation, but is considered to be atypical towards a larger population. This study tries to counter this by selection a crucial case based on the most-likely case design. Due to the high likeliness of policy entrepreneurship because of the complexity of the case, one can generalize the results towards more cases that possess a similar or lesser extent of complexity.

Where validity concerns the accuracy of measurement, reliability assesses how reliable or stable the values are when applied to other cases (Babb et al., 2011). In other words, is the study replicable under similar conditions? This study aims to clearly explain how this research will be conducted, how data is collected and will be interpret. As said before, this study has close connections to the causal chain as elaborated upon by Moravcsik (1999). This study will try to enhance the reliability as much as possible be detailed conceptualization and triangulation of sources. It will aim to present measurement indicators in a transparent and consistent manner.

4.4 Crucial case design

The case selection for this study is based on the relationship between the case and the theories. According to Blatter & Haverland, “focussing on one case allows for more complex conceptualization of the phenomenon and the theories” (2012: 63). This study aims to select cases that are theoretically crucial: “a case that is treated in both senses [as a most-likely case and as a least-likely case, red.] and confronted with both theory and counter theory” (Blatter & Haverland, 2012: 176). A case is only considered crucial if the ‘major conceptual aspects of a dominant theory are empirically disconfirmed and the major conceptual aspects of a non-dominant theory are empirically confirmed’ (Blatter & Haverland, 2012: 178). Crucial cases are based on the most/least likely designs, and based on the assumption that some cases are more important to test with regards to the theories. If a case is unlikely to be consistent with the predictions and expectations of the theory, and data supports the theory, this increases the validity of the theory at play. Vice versa, if a case is likely to fit the theory, but data shows a different direction, the results hamper the validity of the theory. The most/least likely design is often referred to as the ‘Sinatra interference’. If I can make it here, I can make it anywhere. Or inversely, if I cannot make it here, I cannot make it anywhere (Levi, 2008: 12).

Even a single case can be significant for testing theoretical predictions and making valuable remarks about the importance of the theories. The aim of the crucial case is also to re-visit Moravcsik's findings to the best extent, taking the limits of the scope of this study in consideration as well. The theories have been selected as they diverge considerably on the occurrence of policy entrepreneurship. This study expects policy entrepreneurship to be present, and therefore expects the theory of Neo-functionalism to contain the most explanatory power, being the dominant theory in this study. On the contrary, there is LI and the paradigm of Moravcsik, who argues the Commission does nothing more than reflecting the will of national governments and is not able to informally influence decision-making procedures. This study has presented arguments that doubt whether the findings of Moravcsik are still applicable, and whether the theory of LI contains significant explanatory leverage. The crucial case study will therefore be selected on the conditions of the most-likely case design, in which Neo-functionalism is the theory that support the case. The theory of LI is considered to be the counter factual.

In order to become crucial, the case is selected on the conditions of complexity. The complexity of an issue is at the core of informal policy entrepreneurship and considered to be the most-likely condition in which the conditions of successful influence build upon. If a case is considered to be crucial due to this complexity, one is able to generalize towards a larger population of cases. In other words, if this study doesn't find indications that policy entrepreneurship takes place in cases that are technically and legally complex, one can assume policy entrepreneurs don't play a significant role in cases that are considered to be less complex.

5. CASE SELECTION

This chapter will elaborate on the case selection. As has been discussed in the previous chapter, the crucial case is selected on the most-likely design. Hereby it supports the theory of Neo-functionalism, and does LI act as the counter theory. The case becomes crucial through selecting it on the conditions of complexity. This chapter will first provide an overview of the policy domain of the external dimension of energy security, and the competences of both the Commission and the member states. Next, it will elaborate on the complexity that is present in the domain. This brings us to the Southern Gas Corridor (SGC) as the crucial case for this study, and the 2016 decision on Intergovernmental Agreements (IGAs) as related legislation that will be applied to the causal model.

5.1 Energy security: the external dimension

Energy security can be divided in the internal and external dimension. The internal dimension focuses on market access, consumer protection and supporting interconnection pipelines. The external dimension deals with safeguarding external sources of supply and their sustainability towards the European gas market. The securing of adequate energy supplies has been politicized in recent years and brought up high on the agenda of European policymakers (European Commission, 2009; 2014). The EU has a deeply cherished wish to diversify the energy suppliers and energy routes. If such, it can become less dependent on the supply of gas by Russia.

The objectives of the internal and external dimension are interlinked, and more than often actions in one dimension impacts the other dimension as well. The Commission states “external energy policy needs to reflect the interconnectedness of the internal market and the interdependence of the EU member states” (European Commission, 2011). In the internal dimension, the Commission yields many competences. It regulates the commodity market, decides upon market measures and can enforce control mechanisms to ensure competitiveness. In the external dimension, its competences are more restricted. Member states still possess the full autonomy over their energy sources and suppliers. However, in order to reach its objectives in the internal dimension and safeguard the internal gas market, the Commission argues it needs to have a firm grip on the external dimension as well. Being a rational actor, it therefore tries to expand its limited competences. As energy security is being subjected to the OLP, the Commission may try to do so by initiating legislation.

Energy policies in both dimensions are subjected to co-decision between the Council and EP, and follow the OLP. Yet, the scope of legislative power for the Commission is

limited in the external dimension, as various issues still remain under the sovereignty of the member states. These include the control over energy supplies. Nonetheless, the Commission provided several guidelines and frameworks surrounding the security of energy supplies in recent years, exemplified in the European Security Strategy (2014), the Gas Stress Test (2014), and the Energy Union (2015). The objectives to be reached in these documents often intertwine the two dimensions. But as the powers of the Commission are more limited in the external dimension, one can understand the friction this might lead to between the Commission and the member states when the Commission interferes in the external dimension. The construction of pipeline projects such as the SGC is a case in point where the objectives and dimensions converge.

5.2 Complexity of energy security

The external dimension of energy security can be considered complex. Legally, competences between the member states and the Commission often overlap. Treaties concerning regulation on energy have created a veil of vagueness around authority in energy security. The Treaty on the Functioning of the EU (TFEU) out of 2007 is the latest treaty concerning the division of competences. In general, Commission's competences were increased. Article 122 ascribes the Commission more competences in case of energy supply disruptions, and Article 170 allows the Commission to contribute towards setting up transnational energy networks. However, Article 192 illustrates the national governments remain in control over their own energy supplies: "EU measures shall not affect a Member State's right to determine the conditions for exploiting its energy resources, its choice between different energy sources and the general structure of its energy supply."

This ambiguity results in policies affecting both dimensions. The Third Energy Package (2009) is a case in point. It aims to enhance competition, transparency and coordination. It tries to break-up monopolies of gas networks by introducing unbundling obligations, which deny the possibility of owning both the supply of gas as the pipeline covering the gas. The pipeline has to be open to third parties, in order to foster competition. This package has direct effects on the external dimension. As national governments are in charge of their own energy supplies, they often maintain independent relationships with foreign suppliers through long-term contracts. By breaking up monopolies, the Commission might endanger such contracts. As such, the ambiguous boundaries surrounding authority in energy security provides an opportunity for the Commission to be exploited, in order to achieve its objectives, while at the same time widen the scope of its authority.

As for technical complexity, the complexity is more concerned towards the interdependency and issue density of the issue. Policies in the external dimension are cross-sectorial in nature, and its side-effects cover multiple policy domains such as the internal market, climate action and neighbourhood policies. Objectives may impinge on one another, creating complex linkages. The side effects of restrictions on bilateral gas agreement may have a direct impact on infrastructural gas projects that member states wish to pursue. Technical complexity in this domain is therefore more concerned with the side effects of measures taken, and the number and importance of issues arising within the policy space.

5.3 Southern Gas Corridor

The SGC is a distinctive case within the external dimension of energy security. This pipeline project has been at the forefront of Brussels' external energy policies for years, and is a highly political project involving multiple actors. The project aims to bring gas from the Caspian Basin to Europe in order to diversify gas supplies and answer the growing demand of the European gas market. The SGC entails a pipeline system up to 3500 kilometres bringing gas from Shaz Deniz II gas field in Azerbaijan to southern Italy. Furthermore, the pipeline yields to potential to make way for gas suppliers in the Middle East. It could potentially share gas coming from countries like Iran, Iraq and Turkmenistan. The SGC consists of three major pipelines. The South Caucasus Pipeline (SCP) runs from Azerbaijan and Georgia to the Turkish border. The Trans Anatolian Natural Gas Pipeline (TANAP) delivers the gas from Turkey to the borders of the EU. The Trans Adriatic Pipeline (TAP) is the European leg, and brings the gas from Turkey to Italy through Greece and Albania. See Figure 5. for an illustration of the final construction of SGC.

The SGC is a crucial project in the diversification of gas supplies. Both the Commission and the member states have high interests in the project. The project touches objectives in both dimensions, and therefore fits perfectly in the competency-issue as discussed in the previous sections. The Commission has a vested interest in protecting its internal energy market, fostering competition and diversifying its gas supplies. The SGC is the only project diverging from Russian ties in the internal gas market, and diminishes the dependency on Russian supplies considerably (Eurostat, 2016). Or, as put in the words of former Commission president Barroso, the project is “a collective approach to key infrastructure to diversify our energy supply” (Barroso, 2008). The member states aim to decrease their energy dependency and safeguard sustainable supplies of gas in the near future.

Pipelines not only transfer gas. They are also politically loaded and of geopolitical importance, often touching the sovereignty of member states. Although many member states are in favour of diversification in order to become less dependent on Russian gas – especially Eastern member states that rely almost 100% on Russia – they differ on how to resolve this. Most importantly, member states aim to safeguard their own supply. This is illustrated by the fact there have been more pipeline projects next to SGC. The South Stream project was a pipeline going from Russia through the Black Sea, entering Bulgaria. The North Stream project is a pipeline coming from Russia as well, entering the Western European market in Germany. It thereby bypasses traditional transit countries such as Ukraine and Poland. Set against the external events in recent years and growing tensions concerning dependency on Russian gas, one can imagine the interest of the Commission in the SGC, being the only pipeline project diversifying from Russian supplies.



Figure 5: The final design of the Southern Gas Corridor, with the three different pipeline projects (Bagnoli, Ciobanu & Fotiadus, 2016).

The geopolitical importance and political saliency was also observable within the SGC project. For years, the most intriguing question was what the European leg of the pipeline would look like, which would either be TAP or the Nabucco pipeline. The Nabucco pipeline would transfer the gas from Turkey through Eastern European countries like Bulgaria, Hungary and Austria. This was the preferred option by the Commission, and heavily promoted by many high-level officials and official documentation. This had to do with the fact that the Eastern European countries were hit the hardest in the gas disruptions, and remain almost completely dependent on Russian gas deliveries (Dokos & Tsakiris, 2012;

Sartori, 2012; De Jong, 2013). Although the Commission could not directly subsidize the project, Nabucco did receive grants from the Commission covering up to 50% of the total costs for conducting feasibility studies (European Commission, 2013b; 2013c; Kardas, 2015). Furthermore, a list of ‘Projects of Common Interest’ confirmed that the Commission supported projects that would expand the variety of suppliers and routes (European Commission, 2013c). However, in 2014 the international consortium concerning Shaz Deniz II selected TAP as the European leg for the SGC. Despite heavy support by the Commission, Nabucco was not considered feasible due to a weak economic rationale. The balance was ultimately tipped in favour of TAP. Compared to TAP, Nabucco was more expensive due to its longer route, and the involved gas companies lacked funds and prestige, which the big gas companies in the TAP consortium did possess. At the same time, the TAP consortium was able to demonstrate that it would provide the Shaz Deniz II consortium with higher gas sales prices than Nabucco could (Koranyi, 2014).

5.4 2016 Decision on Intergovernmental Agreements (IGAs)

In order to fully understand policy entrepreneurship, one should research relevant legislation that includes diverging preferences between the Commission and national governments. The SGC does not derive from EU legislative procedures. Decisions will be made in the international consortiums. However, due to its political saliency, both the member states and the Commission try to be involved in the project to the greatest extent, and try to influence the procedure, as we have seen in the European leg of either Nabucco or TAP. This study will therefore take issue of the most relevant legislative proposal, as it contains a decision-making procedure and subsequent multilateral outcomes. Consequently, it can be applied to the causal model.

In order to detect policy entrepreneurship in the SGC, one should consider the legislation that is associated with it. Bilateral gas agreements are key in understanding energy dependency, and impact the internal gas market significantly. They are closely related to gas projects, as member states prefer projects that transfer gas that is directed from the supply countries they have aligned with. The 2016 decision on Intergovernmental Agreement (IGAs) deals with these bilateral gas agreements. More importantly, it is the legislative proposal that is the closest aligned with the SGC. The 2016 IGAs aims to provide the Commission an ex-ante assessment mechanism in which it may scrutinize bilateral gas agreements between member states and third countries prior to the signing of the contract. These contracts will be assessed along EU regulation concerning the internal gas market. The decision requires

member states to submit IGAs that do not breach the functioning of the internal market, as they are “likely to have an impact on the operation or the functioning of the internal dimension for energy or on the security of energy supply” (European Commission, 2011c; 2016c). Bilateral gas agreements are not always in the common interest of the EU. The contracts often prohibit competition and prevent ownership unbundling from taking place. Furthermore, they are often contracted for several decades in advance. This legislation aims to safeguard the integrity of the internal gas market, and to make sure the contracts correspond to EU law. The decision scrutinizes the role of foreign suppliers in the internal gas market. Through the information mechanism, member states would have to inform the Commission about their intentions and hand over relevant documents about the contract. At the request of the member state that is involved in the deal, the Commission can be present at the negotiations with the supplier. The Commission may also issue a statement in which they formulate an opinion concerning the contract prior to its signing. By obtaining information on gas agreements, the Commission aims to share this information with all member states in order to avoid infrastructure gaps. Eventually, this would lead to a greater solidarity and coherence among member states, stronger protection of the internal market, as well as better-connected pipelines (European Commission, 2011c; 2016; 2016b).

The 2016 legislation repeals the 2012 IGAs decision (994/2012) and can be considered a follow-up. In the years between the two decisions, the context of energy security has changed considerably. Due to gas disruptions in Ukraine and tensions with Russia, more coordination and transparency was deemed necessary (European Commission, 2014). The Commission issued a review on the 2012 decision. In here, it concluded the information mechanism was not working effectively. It should be strengthened, in order to adapt to the current situation, and reach the objectives in both dimensions (European Commission, 2016b). What’s interesting to note in advance: the member states’ preferences did not change in the years between the two decisions. However, the adopted 2016 version does now allow the Commission to ex-ante scrutinize agreements prior to the signing. This is a fundamental difference with regards to the 2012 version, where it could only scrutinize the contract after the signing. Set against the intertwined policies in both dimensions, and strong preferences of both the member states and the Commission in this area, this legislation requires more attention. By subjecting the 2016 IGAs to the causal model, one can observe policy entrepreneurship on the most relevant legislation concerning SGC. Consequently, one is able to issue assumptions on policy entrepreneurship in the SGC.

6. PREDICTIONS AND EXPECTATIONS

The conceptual model for both theories can be found in Figure 3. and Figure 4. This is based on the three dimensions as discussed: the distribution of information, the negotiation process and the decision-making procedure. The congruence analysis begins with theoretical paradigms that contain a high level of abstraction. In order to test and compare these theories empirically, one needs to extract implications on a lower level of abstraction (Blatter & Haverland, 2012). In order to specify the assumptions of both theories towards the case, predictions and expectations will be formulated that we can observe in the empirical world. The predictions and expectations can be convergent, contradictory or complementary. In this study, they will be presented as contradictory. Table 1. and Table 2. present an overview of the predictions and expectations for each theory along the three dimensions.

6.1 Distribution of information

P1 and P4 discuss the distribution of information between the Commission and national governments. The fundamental issue here is whether the Commission is able to generate information and ideas - political resources - at the expense of the member states due to its policy expertise. If so, there is a resource asymmetry hence bottleneck to exploit. P1 assumes the Commission is able to do so. P4 assumes political resources to be evenly distributed among the Commission and member states. This entails there is no indication why the Commission would be able to generate more political resources than national governments. This doesn't necessarily mean the distribution of information is equal among all member states. This is dependent on the transaction costs and relative gains for each member state. But for the sake of clarification, an even distribution comes down to equal opportunities for all actors to obtain political resources.

Two expectations are derived for each of the predictions. E1 and E7 discuss the transaction costs and relative gains. The relative gains of the actors are closely aligned with the transaction costs. If the actor perceives the transaction costs as too high relative to their gains, this may lead to inefficient negotiations, and provides an opportunity for the Commission to exploit. Opposite to this, transaction costs can be considered as low relative to the gains of the member states, and impose no constraints on the negotiations. After the transaction costs are determined, a stakeholder analysis will be provided to indicate the relative gains of each actor.

NEO-FUNCTIONALISM

Distribution of information

- P1 The Commission is able to generate political resources at the expense of national governments
- E1 Political resources are not available at low transaction costs, and impose constraints on the ability to generate them
- E2 The Commission has access to political resources unavailable to national governments

Negotiation process

- P2 The Commission exploits the bottleneck by performing entrepreneurial tasks most effectively
- E3 The Commission performs entrepreneurial tasks of initiation, mediation and mobilization
- E4 Positions of national governments regarding the issue at stake are altered - as a result of increased effectiveness

Decision-making procedure

- P3 Multilateral outcomes are biased towards Commission preferences
- E5 Interference by the Commission has made the outcome Pareto-efficient
- E6 Outcomes reflect the preferences of the Commission and do not match with intentional national interests

Table 1: Predictions and Expectations for Neo-functionalism

Next, the access to information is discussed. E2 expects the Commission to have access to political resources unavailable to national governments. The Commission might be in a more privileged position to access and generate political resources, for example due to its connection with interest groups and various trans-governmental expertise bodies. As such, the Commission could gain expertise unavailable to national governments. E8 expects national governments to have the same access to political resources, due to their vested interests and strong domestic bureaucratic apparatus. If the Commission possesses more information and ideas than national governments, we should observe this in official documentation shared among participants. In here, it should show the participants have privileged access to these political resources, hence unavailable to national governments and other actors outside these dialogues.

6.2 Negotiation process

P2 and P5 discuss the exploitation of the bottleneck and subsequent execution of the entrepreneurial tasks in the negotiation process. The fundamental issue here is whether the Commission is able to exploit its comparative advantage and manipulate the political resources to the most effective extent. In order to determine this, one should look which actor executes the tasks and how effective they do this. As for policy initiation, who initiates proposals and raises problems to discuss? Although the Commission has the right to initiate legislation, one should also consider the informal aspect of agenda setting. The Commission might be able to raise issues through the output of frameworks and guidelines, also known as soft law. For interstate mediation, one should note interstate collaboration and the role of the Commission as mediator in this. Do they interfere by proposing new compromises? As for social mobilization, one should determine to what extent interest groups are involved and what side they support.

LIBERAL INTERGOVERNMENTALISM	
Distribution of information	
P4	Political resources are evenly distributed among national governments and the Commission
E7	Transaction costs impose no constraints on the ability to generate political resources
E8	National governments have access to the same political resources as the Commission
Negotiation process	
P5	There is no bottleneck and national governments perform entrepreneurial tasks the most effectively
E9	National governments perform entrepreneurial tasks of initiation, mediation and mobilization
E10	Positions of national governments regarding the issue at stake remain stable and fixed
Decision-making procedure	
P6	Multilateral outcomes reflect the preferences of national governments
E11	Agreements are Pareto-efficient without supranational interference
E12	Agreements reflect the preferences of national governments and match with intentional national interests

Table 2: Predictions and Expectations for Liberal Intergovernmentalism

Although the Commission might be able to execute some of the tasks, or maybe all, this does not imply they do this effectively. Mere presence does not imply actual influence. By detecting shifts in national preferences, one is able to determine the effectiveness of the Commission's interference. The Commission might be able to change national interests towards its own preferences in relevant legislation. Alternatively, if national governments perform the tasks the most effectively, their preferences will naturally remain stable and fixed. The Commission might be active, but does not play a significant role. Through one-dimensional spatial modelling, one can assess the preferences of both actors on the 2016 IGAs legislation. The 2012 proposal will be presented as well, in order to show whether a change in preferences has occurred. This would indicate whether preferences have remained stable and fixed, supporting LI, or have changed due to interference by the Commission, supporting Neo-functionalism.

6.3 Decision-making procedure

P3 and P6 discuss the multilateral outcomes resulting from decision-making procedures. The fundamental issue here is whether outcomes are altered towards the preferences of the Commission. This could either be a more Pareto-efficient outcome, or an outcome in which the Commission successfully imposed their own preferences on the decision-making procedure. In the first situation, all options at the table have been exploited, and political resources are allocated in the most efficient manner. All participating actors are maximizing their utility. There is no other situation that would make the collective better off. None of the member states complains about the outcome being suboptimal. This could either have been achieved by interference of the Commission through the entrepreneurial tasks, or by efficient negotiations by the member states themselves. One can detect Pareto-efficiency by observing whether the preferences of the actors have been represented in the decision-making procedure. If not, the actors should complain about the outcome being suboptimal, as considerable preferences have been left out of discussing.

E6 and E12 discuss whether the Commission has been successful in driving cooperation beyond the initial interests of the member states, and what interest the decision-making procedure depicts. This outcome either reflects the interests of the Commission, meaning the interests of the member states have altered, or reflect the interest of the member states, as they have remained stable and fixed. By applying the stakeholder analysis and spatial modelling, one can assess to what extent the interests of the actors are reflected in the multilateral outcomes.

7. EMPIRICAL OBSERVATIONS

This chapter aims to present and analyse data that will either support or reject the theoretical concepts of the two theories and subsequent implications for policy entrepreneurship by the Commission. It will do so by subjecting the legislative proposal of the 2016 IGAs to the causal model. Following this, one is able to issue assumptions regarding policy entrepreneurship on the SGC. Data will be presented along the dimensions of the causal model: the distribution of information, the negotiation process, and the decision-making procedure. The specific formulated predictions and expectations will be given empirical substance.

7.1 Distribution of information

7.1.1 Transaction costs and relative gains

The transaction costs of participating in negotiations and making a trade is closely aligned to the complexity of the issue. Generally, transaction costs can be considered as high for cases in the external dimension. Domestic interests, translated in heterogeneous preferences, dominate energy security. Following this, there is often incoherence among the preferences of national governments. As such, closing a deal is more difficult, takes more effort and resources, and therefore entails high transaction costs. The transaction costs for the IGA legislation are considered to be high, but not as high as the costs for the SGC. In the case of IGAs, there are several indicators that determine high costs. There is a high number of actors involved. The issue density of the policy space, the linkage towards other issues, makes agreements highly interdependent. This linkage is relevant for both the domestic aspect as the EU aspect. Domestically, IGAs are i.e. closely related to bilateral relations with other states, trade agreements and environmental concerns. With regards to the EU, as already discussed, IGAs affect the internal market, gas demands, and development of pipeline projects. The costs are somewhat constrained by the fact member states' preferences towards the legislation are relatively homogeneous. This has to do with energy security being a salient issue, in which national governments tend to pursue their domestic interests rather than following a collective approach. For the case of IGAs, the outcome either preserves the domestic control over gas agreements, or provides the Commission with more authority to scrutinize. The member states are relatively homogeneous in their preferences towards the outcome of the IGAs, as they are keen on preserving their authority. The negotiation process will further elaborate on this.

For the case of SGC, transaction costs are determined as even higher. Again there is a close interconnection to other policies. Various member states are involved, but now also

interest groups and parties from the private sector are included. Due to the national interests, there is strong heterogeneity in the preferences of the actors. This means that national governments diverge on their preferences towards infrastructural gas projects, and choose to favour those projects that are the closest in conceding to the national interests. This puts a burden on negotiations: making a trade is more difficult, and is determined by high transaction costs. Transaction costs are only relevant when measured with the relative gains for the actors at play. A stakeholder analysis with subsequent gains for the actors will be presented next.

For the Commission, the relative gains are high. The SGC is of strategic importance for the EU to ensure reliable, secure and sustainable gas supplies for the coming decades (European Commission, 2013; 2014b; European Parliament, 2015). The SGC is the sole infrastructure project that aims to diversify its gas suppliers. The gains for the Commission are based on answering the growing gas demand in the EU, as well as securing reliable gas supplies, and strengthening the internal gas market. Bilateral gas agreements are denying these goals to be achieved, and have a direct impact on internal market (De Jong, 2012; 2013). The integration of energy markets and infrastructure entails that decisions by one member state may impact the security of supply in neighbouring countries. The IGAs legislation aims to make sure the rules are fair and equal for everyone. The information mechanism has contributed to the cancellation of the South Stream project, as the contracts between member states and Russian gas supplier Gazprom were not in line with EU legislation (Euractiv, 2013). An information mechanism that allows for more control over bilateral gas agreements is therefore a vital gain for the Commission, and paramount in achieving the objectives for the internal gas market.

For the member states, the relative gains are high as well. Member states remain to have full autonomy over their national energy plan, and decide themselves where to get their gas and how to maintain relationships with foreign suppliers. Bilateral contracts with gas suppliers are a key factor in explaining the member states interests in some gas infrastructure projects, and resistance to others. National gas companies are necessary to form consortiums. Consortiums will commercialize the project, gain the necessary funds, and implement the project. Italy, Germany and France have close ties to the Kremlin. Gas companies like E.ON (Germany), GdF (France) and ENI (Italy) collaborate with Russian counterpart Gazprom on many projects. They are able to mobilize support from the national capitals for this, and therefore the national governments of these member states are not very keen on the IGAs legislation, as this would breach their sovereignty on this subject (Beav & Overland, 2010).

In conclusion, the transaction costs are determined as high for the IGA and even higher for the SGC, but so are the relative gains. Transaction costs impose therefore no constraints on the ability to generate political resources. Both the Commission as the member states have high gains at stake. For the Commission, this means achieving the goals in the internal gas market, whereas for the member states this comes down to preserving their authority on the national gas plans.

7.1.2 Access to information

Ever since energy security has become a focal point in European policymaking, the Commission has been involved in gaining expertise by involving multiple actors beyond the member states, and through opening and facilitating dialogues. Already in 1999, the Commission established trans-governmental bodies bringing together market players, network operators and national regulators in the Madrid Forum for Gas (Schubert, Pollak & Kreutler, 2016). The aim was to provide a forum for cooperation and dialogue, in which best practices could be shared. Achievements that were achieved here were later operationalized in Brussels, and shaped EU legislation in the internal market. Transnational associations emerged, such as the peak organisation for gas (ENTSO-G). To varying degrees, these organisations are the result of Commission activism in setting up the dialogues and providing substance to the discussions. Not surprisingly, these organisations often represent Commission's interests and support their operations. The Commission also worked on the landscape of interest representation in the context of emerging liberalization policies. It actively invited consumer protection groups to the table of the forums to facilitate a counter voice. As a result, this explains the shift in interest representation in Brussels more towards the consumer instead of supplier. This is visualized in the support for the consecutive Energy Packages and unbundling obligations, hoping this would result in lower gas prices for the consumer. As such, the Commission has been at the centre of expertise and spheres of interest groups concerning at first the internal market.

In the internal market, the Commission is deeply rooted in policy networks and interest groups. In the external dimension, this is more difficult to detect. An indication of its expertise would be the provision of several new mandates and competences by the member states. In recent years, its powers in the external dimension have been extended considerably. In the Energy Policy for Europe (2006), it was provided with the mandate to initiate meetings on energy strategies, construct frameworks for national policies to build upon, and to increase dialogues with producers and transit countries with regards to infrastructural projects (Mayer,

2008; Maltby, 2013; Schubert, Pollak & Kreutler, 2016). In the 2011, the Council provided the Commission with a mandate for negotiating a binding treaty for Caspian gas on behalf of all the member states (European Commission, 2011b). In 2014, the national governments asked the Commission to conduct studies towards energy security, and to develop a comprehensive plan for the reduction of energy dependence, leading to the Energy Security Package regulation (2016).

Concerning the IGAs legislative proposal, there are some indications that would assume the Commission possesses or has access to more political resources than national governments have. If invited by a member state, it is able to join the bilateral talks between two governments concerning the contract. Information obtained here is not open to the public, besides the parties involved. However, this is still at the disposal of the member state, and the whole idea behind the IGAs is to share information collectively among the member states in order to create a more fair and efficient Energy Union. Moreover, the Commission reviewed the 2012 IGAs decision themselves. After the review, they concluded the information mechanism was not working efficient, and should be strengthened. Following the review, they proposed the same legislation in the 2016 version as the 2012 piece. The fact that the policy initiator also reviews the policy itself is perhaps a bit odd, and could indicate the Commission manipulates the information it possesses about the legislation towards support for strengthening the information mechanism. In conclusion, although there might be indications to assume that the Commission is in a better position to obtain and generate information and ideas, up to this point there has been no official documentation in which it has become clear the Commission possesses political resources that the national governments do not have. As such, there are no indications that policy expertise by the Commission leads to an information asymmetry. Therefore we can conclude that national governments have the same access to political resources as the Commission.

These results have several implications for the expected causality in this study. According to Moravcsik, only if the complexity and high transaction costs preclude efficient negotiations, does a window of opportunity exist for policy entrepreneurs. When political resources are not available at low transaction costs, as is determined, this may provide the policy entrepreneur leverage in manipulating its expertise. Both the high transaction costs and complexity are determined for the case. However, there are no observations in which it becomes clear the Commission manipulates its policy expertise. There are no indications of resources being distributed asymmetrically hence there is no information asymmetry based on policy expertise. There are numerous reasons to assume the Commission is in a better position

to access and generate information and ideas. Its firm grip on the internal market has provided them considerable policy expertise, and its powers in the external dimension have been enhanced in recent years. With regards to IGAs, the possible interference in bilateral agreements might provide the Commission information unavailable to other actors. But although there might be indications, no such thing as a resource asymmetry has been detected. The distribution of information is therefore in favour of the theory of LI, as both E7 and E8 are confirmed. Consequently, one would expect not expect the policy entrepreneur to perform entrepreneurial tasks more effectively than national governments, and exploit the negotiation process.

7.2 Negotiation process

7.2.1 Execution of entrepreneurial tasks

In order to assess whether the Commission has been able to effectively exploit the bottleneck, one should first assess which actor performs the entrepreneurial tasks of policy initiation, interstate mediation and social mobilization.

7.2.1.1 Policy initiation

The Commission has been a crucial actor in raising problems to discuss. In 2012, the Commission adopted a decision on IGAs (994/2012). The Commission proposed to review and scrutinize bilateral gas agreements through an information mechanism. This in order to ensure the agreements would comply with EU law. Member states would have to inform the Commission prior to the agreement about their intentions. The Commission could ask for the necessary information on the contracts, and to be present at the negotiations. Furthermore, it could form an opinion before the signing of the contract. As will be discussed later, the decision was strongly opposed by a majority of the Council, and heavily amended.

After reviewing the 2012 outcome, it became clear to the Commission the Decision was not working (European Commission, 2016c). As summarized by the Commission in their report, the 2012 Decision “could be more efficient if the compatibility check it established were done ex-ante” (European Commission, 2016b: 5). Compliance checks are now carried out after the conclusion of the agreement, and are therefore hard to renegotiate in case they don’t comply with EU law. The main goals of the revised 2016 proposal remain the same. They aim at bilateral agreements becoming more transparent. These agreements should comply with the internal market rules, and so enhance the security of energy supplies. However, instead of assessing the contract post-agreement, national governments would now

need to inform the Commission prior to the negotiations on an obligatory basis. A draft needs to be communicated. The Commission will then prepare an ex-ante assessment and brief the member state about its advice regarding the contract. As such, the revised version has developed a mechanism for the Commission to allow them to keep oversight on the bilateral agreements and subsequent compliance with EU law, and issue its comments before the signing of the contract (Batzella, 2015; Fleishman Hillard, 2016; European Commission, 2016c; 2016e; 2016f; Austvik, 2016).

Next to their formal power and mandate to initiate legislation under the OLP, the Commission has also played a significant role in the informal agenda setting. According to the Commission, energy policy should be given a firmer legal basis, and be more interconnected to policies on environment and the internal market, in order to achieve the goals as laid out in the Energy Union (2015) (European Commission, 2011). Especially after the external events as mentioned, the Commission has issued successive Green Papers and Communications on the future of energy security supplies (2008; 2009; 2013). This is a clear sign of spillover, as the supranational actor tries to create arena linkages to transfer its authority towards other domains.

When compared to the prior Commission administration of Prodi (1994-2004), the Barroso Commission (2004-2009) has produced 36 Communications and 3 Green papers, compared to 13 and 1 by the Prodi Commission (Braun, 2009). The amount of soft law output almost doubled in the Barroso period. With regards to hard law, the Barroso Commission issued 29 combined Directives, Regulations and Decisions, compared to 34 by the Prodi Commission. This difference can partly be explained by the Eastern enlargement and subsequent added energy situations. Nonetheless, coming from these states, the Barroso Commission has been more careful in presenting hard law and rather focussed on the informal aspect by issuing general guidelines and frameworks on the subject of energy security. The Juncker Commission has continued this line of soft law, as becomes clear from the numerous strategies such as the Energy Union and Energy Security Strategy. Energy security is considered to be a key political priority of the Juncker Commission (European Commission, 2016).

7.2.1.2 Interstate mediation

Already in the Third Energy Package, the leaders of Austria, Bulgaria, Croatia, Hungary, Italy, Serbia and Slovenia responded to the legislation by sending a joint letter to the then Commission of Barroso in order to express their dissatisfaction with the legislation and

bundling obligations (Euractiv, 2012; European Commission, 2014c). With regards to the IGAs decision, we see similar responses. The 2012 version was received as a highly ambitious proposal on which many member states reacted negatively. Only two member states, Poland and Lithuania, were in favour of enhanced actions and more concrete approaches towards foreign suppliers by the Commission, mainly due to their full dependency on Russian gas deliveries. Other member states, like France, Italy, and Germany, were outspokenly against the proposal, as they were opposed to giving the Commission an enhanced role in scrutinizing intergovernmental agreements (Beyer, 2012; Batzella, 2015). Not surprisingly, the countries most outspoken towards the decision had great interests in pipeline projects that would have been affected by the decision. Italy and France had great interests in the South Stream project, and Germany in the North Stream project. In these projects, many IGAs were already signed that were considered to be in breach with EU law.

Through the OLP and trilogue sessions – ad hoc informal negotiations between the Council, EP, and Commission - the Council adopted a heavily moderated version in the end. This was far away from the original proposal by the Commission. Instead of the compulsory sharing of information by the member state to the Commission prior to the negotiations with third countries, the Council downgraded this to sharing after the agreement. Next, the Commission can only be present at negotiations if the members state requests so. Furthermore, the opinion by the Commission could only be formed post-agreement, not prior to the signing. To sum up, a heavily moderated version was adopted that deviated substantially from the Commission’s proposal, and was much more in line with the relative homogeneous preferences of the Council (Beyer, 2012; Batzella, 2015).

Since the adoption of the 2012 decision, there were 124 notifications by member states regarding their IGAs. On 17 of these, the Commission expressed doubts on compatibility with the internal market legislation (European Commission, 2016d). The Commission asked nine member states to resolve these errors by amending or terminating the IGAs in point. No member state has succeeded in doing this. Therefore the Commission considers the 2012 version to be ineffective (Council of the European Union, 2016; European Commission, 2016b). As such, the revised 2016 proposal was presented in which – most importantly – risk assessment would be conducted prior to the agreement, just as the 2012 proposal initially proposed (European Commission, 2016c).

Again, many member states expressed their concerns. Portugal and France argued the proposal would breach the principle of subsidiarity (Republique Francaise, 2015; Assembly of the Republic of Portugal, 2016; European Parliament, 2017). Other member states like

Germany and the Czech Republic were in favour of discussing the issue, but questioned the need to strengthen the current mechanism and did not think the argumentation as provided by the Commission was sufficient (Federal Government of Germany, 2015; Czech Republic, 2015). Poland and Lithuania were still the only member states in favour of strengthening the mechanism (Ministry of Economy, 2015; Government of the Republic of Lithuania, 2015). Consequently, the preferences of the member states were still against the proposal and relatively homogeneous.

Within the trilogue sessions, the EP and Council were able to reach an agreement. In the final adopted version, the co-legislators agreed that there indeed would be a compulsory ex-ante compliance check by the Commission prior to the signing (Council of the European Union, 2016). In the final trilogue, it says that a mandatory ex-ante compatibility check will be introduced for IGAs related to gas and oil; member states will have to notify their draft before concluding them, and cannot sign until the Commission has issued its opinion; and have to take the utmost account of the Commission's opinion, although not binding (Council of the European Union, 2016). The Commission was obviously happy with the result, as put in the words of Vice-President for the Energy Union Maroš Šefčovič:

"One of the Energy Union's main objectives is to enhance energy security, solidarity and trust. An important element in ensuring energy security is full compliance of agreements related to buying gas and oil from third countries with EU law. Practice has shown that renegotiating Intergovernmental Agreements, once they have been concluded, is very difficult - to the detriment of the Member State concerned and the European Union. Today's Agreement ensures that rather than assessing whether international agreements comply with EU law after they are signed, Member States will now do so in advance. This is a big political and legislative achievement" (European Commission, 2016f).

The Council downgraded the EP's amendment to initially force member states to show how they addressed the objection by the Commission. The Commission may want to participate in negotiations, but this should still be officially requested by the member state – although the EP again wanted to strengthen the Commission's position in this if it were necessary to safeguard the compliance of EU law. Furthermore this will only be applied to gas, and not to oil and electricity contracts. Also, Commission's involvement in the negotiation is still based on the request of the member state. Although downgraded to some extent by the Council, the

2016 decision has secured some competences for the Commission that were still fiercely opposed in the 2012 decision - most importantly the mandatory contract assessment prior to the signing. This is remarkable, as the member states preferences were almost all against an obligatory mechanism prior to the signing of the contract. In conclusion, the Commission has interfered in the interstate mediation by seeking consensus and proposing amendments to the 2012 version. The 2016 agreement on IGAs reflected the initial proposal of the Commission in 2012, although the member states were outspokenly against the obligatory information mechanism.

7.2.1.3 Social mobilization

According to NGO's observing the SGC process, they noted that SGC was "the most frequently mentioned subject during meetings involving EU Commissioner on Climate and Energy policies, and its Vice-President Sefcovic. There are assumed to be 170 different lobby groups, including the gas companies and consortiums" (Matevosyan, 2016). This indicates a large presence of the interest groups in the negotiations regarding SGC and relevant legislation. However, there are no indications the Commission has mobilized domestic or Pan-European support for its proposal regarding the 2016 IGAs. Instead, interest groups – mostly dominated by the national gas champions – supported the member states, as their interests are closely aligned. BusinessEurope argued the mandatory information mechanism would be disproportionate, and discourage trade (2015). EuroGas, representing the European gas industry, was opposed to extending the scope of the mechanism, and argued this would cause delay to the agreements (2015; European Parliament, 2017). The Energy Community – an international organisation represented by the Commission aiming to extend EU law on energy to neighbouring countries- was in favour of strengthening the mechanism (2015). As such, it seems that throughout the negotiations for IGAs, the mobilization of interest groups was primarily conducted by national governments.

With regards to SGC, primarily national gas companies were mobilized to pressure the issue. They often converge with national interests, as the gas market is still dominated by monopolies, often aligned or even subsidized by the state. One can note this in the consortiums surrounding the different pipeline projects. France and Italy are interested in the South Stream. Not surprisingly, both ENI and EdF are part of the consortium. In the North Stream, we find E.ON. In SGC, there were two consortiums. In the Nabucco one, we mostly observe gas companies from Eastern European countries, such as OMV (Austria), MOL (Hungary), Bulgargaz (Bulgaria) and Botas (Turkey). In TAP, we find EON and EGL

(Switzerland) (Baev & Overland, 2010). The Commission does not seem to have a grip on the interest groups and able to mobilize them towards the preferences of the Commission. National gas companies are strongly represented in Brussels, and as they are closely aligned with the national interests, so are the member states strongly represented at the EU level.

7.2.2 Effectiveness of performance

It has been noted the Commission has performed the entrepreneurial tasks of policy initiation and interstate mediation, while the execution of social mobilization was absent for the legislation on IGAs. In order to determine whether the Commission performed these tasks effective and influenced the outcome, one should look at the stability of the preferences of the member states. The preferences will be determined for both the 2012 as the 2016 IGAs legislation, in order to detect change.

Effectiveness of performance can be observed by putting the preferences of the actors that are involved on a scale subjected to the rules of EU legislative procedures, as formulated by Tsebelis & Garrett (2000). Actors and policies can be represented as points in a policy space. Voting in the Council is based on QMV. For the sake of clarity, we assume there are seven member states in the Council, and a qualified majority is five out of seven. In the case of IGAs, approximately ten member states have issued diverging statements on both legislative proposals. As such, they will represent the preferences of the 28 member states in total, visualized in seven position in the policy space. Not all member states have issued statements on the legislation. Explaining why is beyond the aim of this study. Let's assume the interests of the member states who didn't react are represented by the member states who did issue statements, otherwise they would have done it themselves, if they felt their interests were not represented. Consequently, all interests are represented in the policy space. In both legislations, we see recurring member states involved and issuing statements. This allows for an even closer observation in the change of preferences, as almost the same member states are involved in both proposals and have issues statements. The dimension will stretch between accepting the proposal, and granting the Commission the full package of powers as proposed in the legislation, or to reject the proposal and behold the status quo (SQ). We assume all actors are rational, and prefer the outcome to be as close to their preferences as possible. The SQ – no agreement – is less integrationist than any member state is (Tsebelis & Garrett, 2000). Based on the information as presented, we assume the Commission and EP are more pro-integrationist than the member states (Hix & Hoyland, 2011).

7.2.2.1 Decision IGAs 2012

In 2012, a clear majority of member states opposed the mandatory ex-ante control mechanism, and downgraded the proposal substantially (European Parliament, 2010). Figure 6 represents the spatial model for the 2012 IGAs decision. Position one up to seven represent the preferences of the member states. France, Italy, Greece, and Germany can be considered to be the most fiercely against the proposal. They were “strictly opposed to giving the Commission a role to verify the compliance of intergovernmental agreement” (Beyer, 2012; Batzella, 2015). France argued it was up to the member states to make sure that bilateral agreements conform to EU legislation (Batzella, 2015). The four countries will be put on position one up to four on the policy scale. On the other side of the spectrum are Lithuania and Poland, as they both were in favour of an enhanced role of the Commission. According to Poland, “transparency in the area of external energy policies of member states should be improved in the near future [...]. Compliance with the Community legislation should be a fundamental paradigm of international agreements concluded by the member states” (Polish Minister of Economy, 2011; Batzella, 2015). According to Lithuania, concrete mechanisms needed to be proposed in order to ‘respect the member states right to choose their energy mix, and energy security objectives of the EU as a whole.’ “The exchanging of information on existing or new bilateral agreements is the first step” (Lithuania, 2011). Therefore these countries will reflect the positions of six and seven. In between, we find more moderate positions, although still not in favour of granting the Commission more powers. Portugal has issued “the EU should ensure harmonisation between bilateral agreements with third countries” (Ministerio Dos Negocios Estrangeiros, 2011). It will therefore be placed on position 5.

The position of the Commission is obviously at the right-end of the spectrum, as it aims to achieve the full package of powers, and is considered to be integrationist. The role of the EP in this legislation can barely be noticed. It was very much reserved, and did not have much leverage in the trilogues sessions. Almost all amendments by the EP were deleted, and amendments by the Council were accepted (Batzella, 2015). The position of the EP remains integrationist, but not as outspoken as the two member states Poland and Lithuania. In the trilogue negotiations, member states proved to be decisive in getting the EP on board. The position of the EP will therefore be between the most moderate member state that is against transferring authority towards the Commission (Portugal), and the two member states that are outspokenly in favour of the proposal.



Figure 6: One-dimensional spatial model and subsequent actor positions for the 2012 Decision on IGAs

In the figure, the blue stroke indicates the range of possible outcomes. In this type of model, position 3 will be the pivotal player, the decisive actor in the policy process. As part of the OLP procedure, the EP may amend the proposal. Due to this, the range of outcomes will be between the position of the pivotal player and the position of the EP (Garrett & Tsebelis, 2000; Hix & Hoyland, 2011). Due to the somewhat reserved position of the EP, the range of outcomes was more leaning to the left spectrum hence closer towards rejection of the proposal, as position 1 up to 4 represents critical positions towards the legislation. As a result, the legislation was in favour of the member states at the left end of the spectrum, and moderated considerably. The Council successfully downgraded the proposal as it was amended heavily. As such, the result was much closer to the preferences of the member states than to the preferences of the Commission.

7.2.2.2 Decision IGAs 2016

In 2016, a clear majority was still opposed to the proposal, despite the proposal being revised and several years have passed. Figure 7 represents the spatial model for the 2016 IGAs decision. Hungary argued “we do not support any new obligation with regard to the above rights and responsibilities which result in giving up national powers [...]. We do not foresee and do not support any new mechanism to further reinforce the compatibility of IGAs” (Ministry of National Development Hungary, 2015). France did not deem a revision as necessary, as it was up to the member states themselves to ask for assistance of the Commission (Republique Francaise, 2015). Portugal argued the proposal would breach the principle of subsidiarity: “initiative concerned, is liable to infringe the principle of subsidiarity in that it shows a transfer of tasks from member states to the Commission” (Assembly of the Republic of Portugal, 2016). Therefore they will be positioned at one, two, and three. Other member states like Germany and Czech Republic were open to discussion, but questioned the need to strengthen the current mechanism. “To force Member states to suddenly accept an obligatory involvement of the Commission in the way of an ex-ante verification mechanism or even a mandatory involvement in the negotiations would be a

grave reduction of Member States sovereignty” (Federal Government of Germany, 2015). According to Czech Republic, “we deem that the mandatory Commission’s assistance in the negotiation of bilateral agreements is not desirable. We are of a view that the current framework where a member state may request the assistance of the Commission in those negotiations is sufficient (2015). Therefore Germany and Czech Republic will be positioned at four and five in the policy space. On the other side of the spectrum, Poland and Lithuania remained in favour of strengthening the mechanism. According to Polish officials, an “ex-ante verification mechanism should be introduced in the IGA Decision’s provisions on compatibility test” (Ministry of Economy, 2015). Lithuania “agrees on the need to strengthen the information exchange mechanism and supports the idea of introducing the ex-ante principle in this process. It would mean that the Commission’s assessment of the intergovernmental agreement draft should be mandatory before its initialling” (Government of the Republic of Lithuania, 2015). Therefore these states remain at position six and seven.

The role of the EP is more substantial when its political parties are united, and when proposing amendments that clarify the position of either the Council or Commission, rather than proposing changes (European Parliament, 2017c). In the 2016 revision, the EP was in great favour of the Commission’s proposal. The Industry, Research and Energy Committee (ITRE) adopted a report on the IGA proposal with 53 votes in favour, and 10 against. Next, the EP pushed for compliance checks in the areas of oil and electricity as well, and advocated for a provision in which member states should incorporate the advice of the Commission into account prior to the signing, as proposed by the Commission as well. Furthermore, they also tried, unsuccessfully, to amend the provision by obliging the member states to show how they have addressed the objections by the Commission, and to strengthen the role of the Commission in the bilateral negotiations (European Parliament, 2017b; 2017c). After the trilogue sessions, the Plenary adopted the revision by large majority (542 in favour, 87 against, 19 abstentions). In conclusion, the EP’s role was much more clear and instrumental in the 2016 revision than in the 2012 version. It was much closer to the position of the COM this time, and pushed hard for acceptance of the proposal. Therefore it will be positioned much closer to the position of the Commission.

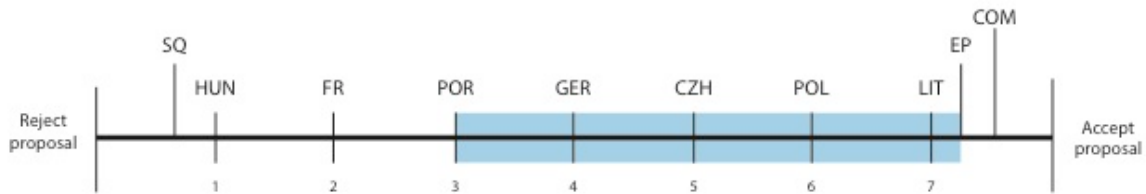


Figure 7: One-dimensional spatial model and subsequent actor positions for the 2016 Decision on IGAs

The member states have somewhat changed positions, but overall they remained pessimistic about the proposal, as position one up to five doesn't deem the mandatory information mechanism as a necessary step. The position of the EP has changed considerably, moving more close towards the position of the Commission. As a result, the range of outcomes is now much wider. As such, the 2016 outcome did have the possibility, and proved to be, more integrationist than the 2012 outcome hence more close to supranational preferences. With regards to the dimension of powers, the 2016 outcome was more towards the right, thus granting the Commission a bigger share of powers out of the legislative proposal.

In the 2016 revision, the Council agreed on the most fundamental point in the legislation: the obligatory information sharing prior to the signing. This is peculiar, as the member states did not seem to have changed their preferences considerably, as became clear in their statements regarding the Commission's proposal. As such, some mechanisms were in play during the negotiations that require some detailed attention, and will be discussed in the distribution of outcomes (7.3.2). In conclusion, the Commission has performed the entrepreneurial tasks to the most effective extent in the negotiation process, as positions of member states regarding the IGAs legislation have altered. Through both formal and informal agenda setting, as well as successful interstate mediation in the 2016 IGAs revision, the Commission has been able to shift preferences towards its own gains, despite member states preferences being similar to the initial proposal. Preferences of the member states proved to be fixed, as they barely altered between the two legislations, but unstable during negotiations, as the Commission was granted substantial powers in the end. Consequently, it is now able to ex-ante assess bilateral gas agreements to be compliant with the regulation for the internal energy market. Therefore E3 and E4 are confirmed. With regards to the negotiation process, the theory of Neo-functionalism has the most explanatory power. This already has some major implications for the causal model and initial assumptions of this study. Apparently, a resource asymmetry is not a necessary condition for a policy entrepreneur to excel at. It has performed the entrepreneurial tasks effectively, but not on the apparent uneven distribution of

political resources. The decision-making procedure will show how the Commission has altered the distributional outcomes along the two aligned dimensions.

7.3 Decision-making procedure

7.3.1 Pareto-efficiency

In order to assess what role the Commission has played in the decision-making procedure, one should first determine the Pareto-efficiency of the distributional outcomes. This does not mean the outcome should reflect the preferences of the member states, but their preferences should be discussed during the negotiations. So were there still options left at the table, or was the negotiated outcome on the 2016 IGAs the best collective result possible? The negotiated outcome indeed appears to be Pareto-efficient, as national governments have not suggested there were agreements left out of discussion. As becomes clear from Council documentation, member states' interests have been discussed in the three trilogues. Objections by several member states were discussed, and negotiated towards a compromised agreement. On this proposal, the Council voted unanimously in favour on March 21st (Council of the European Union, 2016; European Commission 2016; 2016e; 2016f). However, it is difficult to assess whether this has been the case due to interference by the Commission. Although the Commission played a key role in the interstate mediation and policy initiation procedures, it cannot be determined whether this has been the essential trigger in proving Pareto-efficient outcomes. Due to the aim and scope of this study, this expectation will be considered as insignificant, and left out of further discussion.

7.3.2 Distribution of outcomes

Finally, we should observe whether the Commission has been able to alter distributional outcomes towards its preferences. The transaction costs and relative gains have been presented, just as the execution of entrepreneurial tasks. The fixed but unstable preferences of the member states have been presented for both legislations. Different mechanisms seem to have been at play in the alteration of member states' preferences towards the 2016 IGAs legislation.

At first, it seems reasonable to assume a window of opportunity has opened up. The occurrence of external events after 2011 have opened the possibility for the Commission to accelerate and provide swift responses in the face of the Crimean crisis, unease with Russian gas dependency and Gazprom's monopoly in internal energy market, hence renewed attention for energy security (European Parliament, 2015). One might argue this constellation has

combined the problem, policy and politics stream and opened a window in which the Commission was able to present integrationist measures – more strict enforcement of rules and compatibility mechanisms through IGAs – that it deemed necessary to counter the tensions. The Commission argued this was the right time to review the 2012 proposal and argued energy policies have changed over the years, therefore demanding improved legislation (European Commission; 2016; 2016e). The policy context was in such a state that the Commission was able to alter the preferences of the member states regarding IGAs. This gains extra foothold when put in the external circumstances and subsequent ambiguity surrounding gas security due to its complex character. Ambiguity is considered to be an attractive strategy for the policy entrepreneur when the legal basis is weak and uncertainty prevails. The external events have provided a crisis that highlighted the emergence of a political problem – unease with the energy dependency on Russia – carefully exploited by the Commission through the issuing of soft law, and ambitious proposals in the internal market with obvious overlaps to the external dimension.

The 2016 legislation was still considered to be too integrationist according to the member states, and downgraded on various points. Nonetheless, due to this window of opportunity, the integrationist players had more leverage in the trilogue sessions, as the EP has shown through its push towards acceptance of the proposal. On the key issue of the legislation, the information mechanism, they found agreement that was in line with the preferences of the Commission and deviated from the intentional member states interests. As such, the preferences of the member states were fixed, but unstable in the negotiations and prone to influence by the Commission.

One can question what has happened exactly in the 2016 IGAs negotiations. The continuous issuing of strategies and frameworks concerning both the internal and external dimensions could have provided the Commission leverage during the negotiations. All member states have agreed on the Energy Security Strategy (2014) and Energy Union (2015). Achieving (and agreeing to) the objectives in these documents might have pressured the member states to alter their preferences. Moreover, as discussed, the role of the EP has been crucial. EP's position was now very close to the Commission, and its proposed amendments (whether successfully or not) were clearly pro-integrationist. This widened the range of outcomes, hence providing the Commission more powers in the final outcome. Finally, one should also note that the three trilogue sessions might have played a crucial role in reaching the final agreement. This is beyond the scope of this paper, but further research should definitely take the impact of trilogues in consideration.

The outcome of the decision-making procedure is in line with the preferences of the Commission. This outcome presents the Commission a tool to control gas agreements, and thereby support its objectives for the internal gas market, as well as its objectives in the external dimension. This fits in line with the Commission's preference for the SGC, as the other projects align with Russia and therefore endanger the objectives for the internal market. As such, the Commission has been able to spillover its competences from the internal dimension to the external dimension, thereby enhancing the explanatory leverage of theory of Neo-functionalism for this case.

In conclusion, several factors played a role in the alteration of member states preferences in the 2016 IGAs proposal, which essentially was not different from the heavily downgraded 2012 proposal. The multilateral outcomes have shifted towards the preferences of the policy entrepreneur. The Commission has successfully been able to influence the decision-making procedure. The outcome reflects the preferences of the Commission, and does not match with intentional national preferences. The adopted agreement was way more integrationist than its predecessor. As a result, E6 can be confirmed and thereby supports the theory of Neo-functionalism in the decision-making procedure.

8. CONCLUSION

This study has found the Commission acting as informal policy entrepreneur on the 2016 IGAs legislative proposal. The Commission has effectively performed entrepreneurial tasks in the negotiation process, thereby altering the distributional outcomes towards its own preferences. The Commission may now enforce an ex-ante information mechanism that allows it to assess bilateral gas agreements prior to the signing of the contract. The multilateral outcome reflects the preferences of the Commission, and does not match with intentional national preferences. Through the use of informal instruments and supported by the likely occurrence of a window of opportunity, the Commission has been able to informally influence decision-making procedures in the external dimension of energy. It was able to expand its modest competences at the expense of the national governments.

This study has showed that policy expertise by the Commission still is insignificant in explaining resource asymmetries between the Commission and the member states. It is reasonable to assume the “triumph of technocracy” does not play a significant role in explaining policy entrepreneurship by the Commission in crucial cases, based on the perimeters of legal and technical complexity. This re-affirms Moravcsik’s findings, as he argued policy expertise is insignificant in explaining informal entrepreneurship. It furthermore disconfirms the controversies surrounding his findings on policy expertise ever since the publication. However, although policy expertise proved to be insignificant, policy entrepreneurship and informal influence did occur.

If not resource asymmetries based on policy expertise, how could we explain policy entrepreneurship by the Commission in the 2016 IGAs legislation? The Commission has effectively performed entrepreneurial tasks, and thereby was able to influence the decision-making procedure. This enhanced role can partly be explained through the occurrence of a window of opportunity and favourable policy context, providing the Commission more room to manoeuvre and to exploit its position. However, the conditions on which this informal influence has occurred requires further research. According to Moravcsik, only if the complexity and high transaction costs preclude efficient negotiations, does a window of opportunity exist for policy entrepreneurs. Effective informal entrepreneurship requires an asymmetrical control over political resources in order to execute the entrepreneurial tasks. Complexity and high transaction costs have been detected in the case, just as the effective execution of the entrepreneurial tasks. It is also very likely a window of opportunity has occurred. However, informal entrepreneurship has not occurred due to policy expertise by the Commission. As such, this could go two directions.

First, resource asymmetries are built on other conditions than policy expertise. Although this study did not find an asymmetrical distribution of resources at all, this might be influenced by the specific focus on policy expertise. Moravcsik has investigated three other assumptions, as explained in paragraph 2.4. Future research could look into these other assumptions. Perhaps there is a scarcity of creativity, vision, and skill amongst the member states. The Commission might be a more imaginative, skilful and creative actor. The continuous output of soft law has been a case in point, as the Commission is at the forefront of presenting solutions for pan-European issues concerning energy security.

Second, one may question whether resource asymmetries can still be considered as relevant starting points policy entrepreneurs to build upon at all, as there were no indications of resources being distributed asymmetrically in this study. Further research should definitely look beyond the scope of Moravcsik in order to get a comprehensive understanding of the conditions on which policy entrepreneurship is build and may excel at. This study has shown policy entrepreneurs can also excel when the distribution of resources is determined as evenly distributed. This deviates considerably from Moravcsik's assumptions. It would require extensive empirical research to argue otherwise, which goes beyond the scope of this paper. Nonetheless, one might argue the windows of opportunity might deserve some more attention in the causal chain, as they proved to be paramount in explaining the influence of the Commission on the 2016 IGAs legislation. Future research might involve the domain of public policy more closely into studies concerning policy entrepreneurship and informal influence, in order to get a better understanding of the occurrence and conditions of windows of opportunity.

What does the legislation on IGAs tells us about policy entrepreneurship in the SGC? The Decision on IGAs is the most relevant legislation concerning this infrastructure project. Although the SGC cannot be subjected to the causal model, there are several reasons to assume the Commission may fulfil a role as policy entrepreneur. Generalizing the findings on IGA towards SGC is likely, as the conditions for policy entrepreneurs to excel at are even more obvious in the SGC. The consecutive occurrence of external shocks makes this case even more prone to the constellation of a window of opportunity to exploit. As such, the SGC builds upon the conditions of entrepreneurship – complexity - while at same time shows several conditions on which entrepreneurship may excel at: there is a weak legal foundation, high issue density, heterogeneous preferences of the actors involved, and subsequent high transaction costs.

This study has contributed towards the debate of policy entrepreneurs and instruments of informal influence. More specifically, this study has been the first to conduct research on the IGAs 2016 decision and its implications with regards to energy security. It has also put European integration theories on a new foothold, by applying them to contemporary European policies. The theoretical concepts have been applied to a rapidly developing policy domain of energy security and pipeline infrastructure. Both theories have showed their significance to various extents: the distribution of resources was in line with the expectations of LI, as no resource asymmetry has been detected, and the Commission and member states appear to be on the same level-playing field. However, with regards to policy entrepreneurship, the theory of Neo-functionalism proved to outweigh LI: the Commission has performed entrepreneurial tasks more effectively than national governments, and was able to alter the multilateral outcomes towards their preferences. Especially the concept of spillover has been instrumental. It proved to be a crucial concept in understanding Commission's activism in energy security, as to achieve its objectives and expand its competences in both dimensions.

Policy entrepreneurship and informal influence as phenomena are hard to detect. Policy entrepreneurship is heavily dependent on the context of the issue, the conditions of the policy climate (legal framework, inter-institutional relations, technical complexity) and competences of the policy entrepreneur. This study has found interesting starting points for future research. Next to the window of opportunity, the role of the EP and the trilogue sessions seem to be key in understanding the specifics of informal influence. The interplay between the Commission and EP, and support for legislative proposals requires further notice. Notwithstanding, trilogues remain to be characterized by closed doors about what is discussed and who is at the table. As trilogues are considered to be an effective way of reaching agreement beyond the original procedure, further research should provide detailed attention to trilogue settings, and their relation to policy entrepreneurship.

Due to the scope and time frame of this study, it is inevitable flaws will occur during the research. Although this study has provided several perspectives and starting points for further research, some implications should be taken into consideration. This study has elaborated on the model of Moravcsik in order to test his findings and assumptions in a contemporary policy issue. It has tried to get a grasp of Moravcsik's implications as thoroughly as possible. However, due to the limited time available, this study could only do justice to Moravcsik's main assumptions in general terms. Moravcsik has focussed on the European treaties, whereas this study has focussed on decision-making procedures following the OLP.

Consequently, the concepts as outlined by Moravcsik might not apply as correctly in the legislative procedure. I.e. The Commission yields the right of initiation, whereas in Treaties this is different. This has become clear in the independent variable as well. Resource asymmetries as such are difficult concepts that require long-time devotion and assessment. This study was only able to discuss one aspect of resource asymmetries, as it did for policy expertise. Furthermore, the positions of the member states on both legislations are based on a small amount of sources. This could hamper the nuance. Ideally, more sources like interviews would have been conducted, but due to limited time, this was unfortunately not possible.

This study has selected a crucial case based on the conditions of legal and technical complexity to occur and excel at. Based on complexity, the SGC has been a fitting case. However, in order to apply the causal model and enter the decision-making procedure, a legislative proposal had to be picked. For this, the Decision on IGAs was the most recent and relevant proposal. Nonetheless, the conditions for this legislation were not considered to be similar to those of SGC, hence containing defaults. Although being the most relevant legislation to build upon, one should be careful in making too bold statements about generalizability towards SGC, as the conditions for policy entrepreneurship are not the same.

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